

**CITY OF GOODYEAR
CITY COUNCIL ACTION FORM**

**SUBJECT: On-call Plan Review and
Inspection Consultant Agreements**

STAFF PRESENTER: Steve Burger

COMPANY

CONTACT: N/A

RECOMMENDATION:

1. Council authorize the City Manager to execute a professional service agreement with Brown and Associates for conducting building and fire plan reviews and inspections on an as-needed basis.
2. Council authorize the City Manager to execute a professional service agreement with Linhart, Petersen, Powers and Associates (LP2A) for conducting building and fire plan reviews and inspections on an as-needed basis.
3. Council authorize the City Manager to execute a professional service agreement with GP Engineering for conducting building and fire plan reviews and inspections on an as-needed basis.

COMMUNITY BENEFIT:

1. Specialized plan reviewers examine submitted complex plans for compliance with structural, fire and other specific code requirements
2. Contractual consultants are only used on an as-needed basis
3. Budget money can be saved when third-party plan review is used

DISCUSSION:

The City of Goodyear has had a long-standing agreement with several plan review/inspection consultants. The agreement between the City and Willdan and Associates has been in effect since 1988 and the agreement with Bernard, Johnson, Young has been in effect since 1995. It is time that these agreements be reviewed and other plan review agencies be given an opportunity to compete for this work.

During October 2003, the Building Safety Division sent out a Request for Qualifications to six plan review/inspection consultants. The RFQ was sent to the following consultants: Brown and Associates, LP2A, GP Engineering, Stantec, Willdan and W. C. Scoutten, Inc. On November 10, a review panel consisting of the Community Development Director, Fire Marshal, Senior Building Permit Technician, Senior Building Inspector and the Chief Building Official met to discuss the submitted Statements of Qualifications. One SOQ was not considered based on inadequate information. The other consultants were interviewed on December 2 by the same panel with the Community Development Director being replaced by the Risk Aversion Manager.

Another meeting of the panel was held on December 17 to review the final agreement submittals. After reviewing the SOQs and the final agreements, the three highest scoring consultants were selected by the panel. It is recommended that the City execute agreements with these three consultants. This will allow projects to be distributed among the three firms and, in the event one consultant does not continue to meet our standards, projects can still be distributed among the other two. In addition, if one consultant has a large project we can disseminate projects to the other two consultants to keep the projects moving in a timely manner. In the past we have primarily used Willdan and Associates exclusively but workload has increased and concern about relying solely on one firm to keep up has caused us to seek additional agreements. Each of these agreements provides for cancellation with thirty days notice by either party.

This also applies to inspections. With a limited inspection staff, Building Safety is not able to continually meet the demanding inspection schedules many projects require. Projects such as the hospital, hotels and the stadium require an inspector to be on site for an extended time during critical construction periods such as concrete pours and pre-drywall. Third party inspections allow the owner/contractor to use one or more of the consultant's inspectors and pay for the additional inspections. Although the owner/contractor is paying directly for the services, the inspector, by contract, is actually acting as the City's agent. Again, this has been used successfully in the past with the hospital, the Wingate Inn and Suites and several others on an expedited schedule.

Pros:

- Consultants are only used on an as-needed basis
- Larger complex projects require more specialized and extended scrutiny
- City does not have to staff for peak periods which reduces City overhead costs
- Applicants can use consultant inspectors (for a fee) when City inspectors cannot spend all day on a fast-moving project
- Third-party contracts can allow applicants to pay consultant directly rather than having the consultant bill the City

Cons:

- Slightly greater effort required for coordination when projects are out-sourced

FISCAL IMPACT:

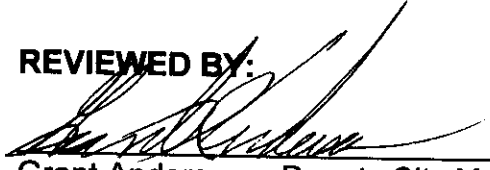
Money is budgeted each year for consultants and contractual services such as inspection and plan review and is only used when a project needs specialized review. The amount spent each year is determined by the amount of projects submitted. The Building Safety Division has been streamlining the third-party plan review process which allows an applicant to pay the consultant directly. Typically the consultant does the plan review and calculates the City Plan Review Fee based on our fee schedule. The consultant's cost is 75% of our City Plan Review Fee and, once this amount is determined, the consultant bills the City. The City collects the plan review fees as well as administrative processing fees from the applicant and then pays the consultant. This requires the City to budget money each year to pay the consultant. With the third-party process, the plans are logged in at the Building

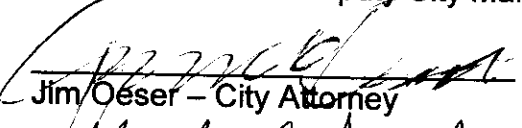
Safety counter and the applicants can self-deliver the plans to the consultant instead of waiting for a courier service to do so. This saves several days in the overall process. When the plans have been fully reviewed, the applicant, not the City, is billed for services. This allows the City to reduce the amount of money budgeted each year. The City would still collect the administrative processing fee and the normal building permit fee. This process has been used successfully in the recent past with the Wingate Inn and Suites, the West Valley Hospital and Pioneer West Ford as well as several other projects. Although the process is still optional, it is hoped that in the next several years it will become more of a normal way of doing business. Each of the above-mentioned consultants has expressed a willingness to work with the Building Safety staff to make this a reality. In addition, per State law, these contracts are limited to a not-to-exceed amount of \$100,000 annually.

Alternatives

Hire in-house specialty plan reviewers such as structural and mechanical engineers.

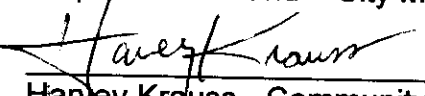
REVIEWED BY:


Grant Anderson - Deputy City Manager


Jim Oeser - City Attorney


Larry Price - Finance Director


Stephen Cleveland - City Manager


Harvey Krauss - Community Development Director

PREPARED BY:


Steve Burger - Chief Building Official

1 **AGREEMENT FOR PROFESSIONAL SERVICES**

2 **THIS AGREEMENT**, made and entered into this ____ day of _____, by and between
3 the City of Goodyear (hereinafter "CITY"), located in the County of Maricopa, State of Arizona, and
4 Brown & Associates Certified Inspection Service, Inc. (hereinafter "CONSULTANT"), whose address
5 is 7022 E. Joan de Arc, Scottsdale, Arizona 85254.

6 **THE PARTIES ENTER INTO THIS AGREEMENT** based upon the following facts,
7 understandings and intentions:

8 The CITY desires to contract with **CONSULTANT** and **CONSULTANT** to contract with the
9 CITY for provision by **CONSULTANT** to the CITY for professional services as further described
10 herein, upon the terms and conditions hereinafter set forth.

11 **NOW, THEREFORE, IN CONSIDERATION** of the mutual covenants and promises of the
12 parties herein contained, the parties hereto agree as follows:

13 1. SERVICES

14 **CONSULTANT** shall provide services for specific projects as may be requested by CITY;
15 such services shall be defined, scheduled, and authorized in subsequent Task Orders. Services may
16 include, but not be limited to:

- 17 • Provide technical personnel to perform plan review and inspection duties for compliance with
18 Goodyear Municipal Code, Mitigation Measures, Conditions of Approval, and other applicable
19 local, state and federal standards
20 • Hold meetings with developer or designer and City
21 • Hold other meetings as required
22 • Prepare all appropriate letters and reports related to the proposed work
23 • Receive all project-related correspondence from the developer or designer
24 • Facilitate communication between appropriate City staff, developer/designer, businesses, and
25 residents during the plan review phase
26 • Coordinate internal review of developer/designer submittals, including other departments and their
27 comments, and returning comments to developer/designer
28 • Provide and maintain project documentation, to be supplied to City at end of work
• Submit updates on project status, as requested, to Chief Building Official

25 **CONSULTANT** shall be an independent contractor and shall have responsibility for and
26 control over the details and means of providing its services under this Agreement. **CONSULTANT**
27 agrees that its services shall be performed with due diligence and in accordance with generally
28

1 accepted engineering practices.

2 CONSULTANT shall use its best efforts to perform and coordinate all activities in a timely
3 manner so that the projects will be completed according to the established project schedules.

4 2. AUTHORIZED REPRESENTATIVES.

5 CITY'S authorized representative shall be the City Manager or his/her designee.

6 CONSULTANT'S authorized representative shall be Michael J. Brown.

7 3. COMPENSATION.

8 See attached Exhibit stating Plan Review and Inspection Fees.

9 CONSULTANT may submit monthly statements for services rendered. It is intended that
10 payments to CONSULTANT will be made by CITY within thirty (30) days of receipt of valid invoice.

11 4. INDEMNIFICATION.

12 CONSULTANT agrees to defend, indemnify and hold harmless the CITY, its officers, agents,
13 employees and volunteers from and against any and all claims, demands, actions, losses, damages,
14 injuries, and liability (including all reasonable attorney's fees and other litigation expenses) arising out
15 of the negligent acts or omissions of CONSULTANT in the performance of this AGREEMENT.

16 5. OWNERSHIP AND MAINTENANCE OF DOCUMENTS.

17 All documents furnished by CONSULTANT pursuant to this AGREEMENT are instruments
18 of CONSULTANT's services in respect to this project. They are not intended nor represented to be
19 suitable for reuse by others on extensions of this project or on any other project. Any reuse without
20 specific written verification and adoption by CONSULTANT for the specific purposes intended will
21 be at user's sole risk and without liability or legal exposure and expenses to CONSULTANT,
22 including attorney's fees arising out of such unauthorized reuse.

23 CONSULTANT's records, documents, calculations, and all other instruments of service
24 pertaining to actual project shall be given to CITY at the completion of the project. The CITY
25 reserves the right to specify the file format that electronic document deliverables are presented to the
26 CITY.

27 6. STANDARD OF PERFORMANCE.

28 CONSULTANT represents to CITY that the services shall be performed in an expeditious

manner, and with the degree of skill and care that is required by current, good, and sound procedures and practices. CONSULTANT further agrees that the services shall be in conformance with generally accepted professional standards prevailing at the time work is performed.

7. INSURANCE REQUIRED.

CONSULTANT shall, at its own expense, procure and maintain in full force at all times during the term of this AGREEMENT the following insurance:

A. Commercial General Liability Coverage. CONSULTANT shall maintain commercial general liability insurance with limits of no less than one million dollars (\$1,000,000) combined single limit per occurrence or two million dollars (\$2,000,000) aggregate limit for bodily injury, personal injury, and property damage.

B. Automobile Liability Coverage. CONSULTANT shall maintain automobile liability insurance covering all vehicles used in the performance of this AGREEMENT providing a one million dollar (\$1,000,000) combined single limit per occurrence for bodily injury, personal injury, and property damage.

C. Professional Liability Coverage. CONSULTANT shall maintain professional liability insurance with coverage for all negligent errors, acts or omissions committed by CONSULTANT, its agents and employees in the performance of this AGREEMENT. The amount of this insurance shall be not less than five hundred thousand dollars (\$500,000) on a claims made annual aggregate basis or a combined single limit per occurrence basis.

D. Compliance with State Workers' Compensation Requirements. CONSULTANT covenants that it will insure itself against liability for Workers' Compensation pursuant to the provisions of Arizona Labor Code. CONSULTANT shall, at all times, upon demand of the City Council and properly authorized agents, furnish proof that Workers' Compensation Insurance is being maintained by it in force and effect in accordance with the Arizona Labor Code.

E. Other Insurance Provisions. The policies are to contain, or be endorsed to contain the following provisions:

(1) CITY, its officers, agents, employees, and volunteers are to be covered

1 as additional insureds as respects: Liability arising out of activities performed by or on
2 behalf of CONSULTANT and operations of CONSULTANT, premises owned,
3 occupied, or used by CONSULTANT. The coverage shall contain no special
4 limitations on the scope or protection afforded to CITY, its officers, officials,
5 employees, or volunteers.

6 (2) CONSULTANT's insurance coverage shall be primary insurance with
7 respect to CITY, its officers, officials, employees, and volunteers. Any insurance, risk
8 pooling arrangement, or self-insurance maintained by CITY, its officers, officials,
9 employees, or volunteers shall be in excess of CONSULTANT's insurance and shall
10 not contribute with it.

11 (3) Any failure to comply with the reporting provisions of the policy shall
12 not affect the coverage provided to the CITY, its officers, officials, employees, or
13 volunteers.

14 (4) The aforementioned policies shall be issued by an insurance carrier
15 having a rating of Best A-7 or better which is satisfactory to the City Risk Manager and
16 shall be delivered to CITY at the time of the execution of this AGREEMENT or as
17 provided below. In lieu of actual delivery of such policies, a Certificate issued by the
18 insurance carrier showing such policy to be in force for the period covered by the
19 AGREEMENT may be delivered to CITY. Such policies and certificates shall be in a
20 form approved by the City Risk Manager. Except for worker's compensation and
21 professional liability insurance, the policies mentioned in this subsection shall name
22 CITY as an additional insured and provide for thirty (30) days notice of cancellation to
23 CITY. Said policies shall not be canceled earlier than, nor the amount of coverage
24 reduced earlier than, thirty (30) days after the CITY receives notices from the insured
25 of the intent of cancellation or reduction.

26 8. SUSPENSION OF WORK.

27 CITY may, at any time, by ten (10) days' written notice, suspend further performance by
28 CONSULTANT. All suspensions shall extend the time schedule for performance in a mutually

1 satisfactory manner, and CONSULTANT shall be paid for services performed and reimbursable
2 expenses incurred prior to the suspension date. During the period of suspension, CONSULTANT
3 shall not receive any payment for services, or expenses, except for reasonable administration
4 expenses, incurred by CONSULTANT by reason of such suspension.

5 9. COMPLIANCE WITH CIVIL RIGHTS.

6 During the performance of this contract, CONSULTANT agrees as follows:

7 **A. Equal Employment Opportunity.** In connection with the execution of this
8 AGREEMENT, CONSULTANT shall not discriminate against any employee or applicant for
9 employment because of race, religion, color, sex, or national origin. Such actions shall
10 include, but not be limited to, the following: employment, promotion, upgrading, demotion, or
11 transfer; recruitment or recruitment advertising; layoff or termination; rate of pay or other
12 forms of compensation; and selection for training including apprenticeship.

13 **B. Nondiscrimination Civil Rights Act of 1964.** CONSULTANT will comply with all
14 federal regulations relative to nondiscrimination in federally assisted programs.

15 **C. Solicitations for Subcontractors including Procurement of Materials and**
16 **Equipment.** In all solicitation, either by competitive bidding or negotiations, made by
17 CONSULTANT for work to be performed under a subcontract including procurement of
18 materials or leases of equipment, each potential subcontractor, supplier or lessor shall be
19 notified by CONSULTANT of CONSULTANT's obligation under this AGREEMENT and
20 the regulations relative to nondiscrimination on the grounds of race, religion, color, sex, or
21 national origin.

22 10 INDEPENDENT CONTRACTOR.

23 In assuming and performing the services, CONSULTANT is an independent contractor and
24 shall not be eligible for any benefits, which the CITY may provide its employees, except as expressly
25 provided for in the AGREEMENT. All persons, if any, hired by CONSULTANT shall be employees
26 or subcontractors of CONSULTANT and shall not be construed as employees or agents of the CITY
27 in any respect. CONSULTANT shall have responsibility for and control over the means of providing
28 services under this AGREEMENT.

1 11. COMPLIANCE WITH LAWS.

2 CONSULTANT shall comply with all applicable federal, State of Arizona, and local laws,
3 rules, and regulations and shall obtain all applicable licenses and permits for the conduct of its
4 business and the performance of the services.

5 12 CHOICE OF LAWS.

6 This AGREEMENT shall be construed and interpreted in accordance with the laws of the State
7 of Arizona, excluding any choice of law rules, which may direct the application of the laws of another
8 jurisdiction.

9 13. NON-WAIVER.

10 The waiver by either party of any breach of any term, covenant, or condition contained in the
11 AGREEMENT, or any default in their performance of any obligations under the AGREEMENT shall
12 not be deemed to be a waiver of any other breach or default of the same or any other term, covenant,
13 condition, or obligation, nor shall any waiver of any incident of breach of default constitute a
14 continuing waiver of same.

15 14. ENFORCEABILITY.

16 In the event that any of the provisions or portions of application of any of the provisions of the
17 AGREEMENT are held to be illegal or invalid by a court of competent jurisdiction, CITY and
18 CONSULTANT shall negotiate an equitable adjustment in the provisions of the AGREEMENT with a
19 view toward effecting the purpose of the AGREEMENT. The illegality or invalidity of any of the
20 provisions or portions of application of any of the provisions of the AGREEMENT shall not affect the
21 legality or enforceability of the remaining provisions or portions of application of any of the
22 provisions of the AGREEMENT.

23 15. INTEGRATION.

24 The AGREEMENT contains the entire AGREEMENT and understanding between the parties
25 as to the subject matter of this AGREEMENT. It merges and supersedes all prior or contemporaneous
26 agreements, commitments, representation, writings, and discussions between CONSULTANT and
27 CITY, whether oral or written.
28

16. SUCCESSORS AND ASSIGNS.

CITY and CONSULTANT respectively, bind themselves, their successors, assigns, and legal representatives. CONSULTANT shall not assign or transfer any interest in the AGREEMENT without the CITY's prior written consent, which consent shall be in the CITY's sole discretion. Any attempted assignment or transfer in breach of this provision shall be void.

17. ATTORNEY'S FEES

If either party to this AGREEMENT commences any legal action against the other party arising out of this AGREEMENT, the prevailing party shall be entitled to recover its reasonable litigation expenses, including court costs, expert witness fees, discovery expenses, and attorney's fees.

18. FINANCIAL RECORDS.

Records of CONSULTANT's direct labor costs, payroll costs, and reimbursable expenses pertaining to this project covered by this AGREEMENT will be kept on a generally recognized accounting basis and made available to CITY if and when required.

19. NOTICE.

All notices required hereunder shall be in writing and mailed postage prepaid by Certified or Registered mail, return receipt requested, or by personal delivery to the CITY's address as shown below, or such other places as CITY or CONSULTANT may, from time to time, respectively, designate in a written notice given to the other. Notice shall be deemed received three (3) days after the date of the mailing thereof or upon personal delivery.

To CITY: **Steve Burger, Chief Building Official**
 City of Goodyear
 Building Safety Division
 190 N. Litchfield Road
 Goodyear, AZ 85338

To CONSULTANT: **Michael J. Brown, President**
 Brown & Associates
 7022 E. Joan de Arc
 Scottsdale, AZ 85254

20. TERM.

The Agreement may be terminated by either party with or without cause at any time after providing the other party no less than thirty (30) days notice in writing via certified mail. In the event of such termination, CONSULTANT shall be compensated for such authorized services up to the point of termination. Any reports or other written, recorded, photographic, or visual materials and other deliverables prepared for the CITY prior to the effective date of such termination shall be promptly delivered to the CITY by CONSULTANT.

22. CONFLICT OF INTEREST: This Agreement shall be subject to cancellation pursuant to the provisions of A.R.S. § 38-511 in the event of a conflict of interest.

IN WITNESS WHEREOF, the parties have executed this AGREEMENT in three (3) copies as of the date and year first written above.

CONSULTANT

CITY OF GOODYEAR

By: _____

By: _____

Name: Michael J. Brown
Title: President
Address: 7022 E. Joan de Arc
Scottsdale, AZ 85254
Phone: 480 991-3751

Name:
Title
Address:
Phone:

APPROVED AS TO FORM:

ATTEST:

City Attorney

City Clerk



FEE SCHEDULE

A. BUILDING PLAN REVIEW SERVICES

For services described in Schedule "A" ITEM 1, BUILDING PLAN REVIEW SERVICES, the CITY shall pay the contractor a fee of 75% of building plan check fees as adopted by the City of Goodyear. The current addition of "Building Safety Journal" published monthly shall be used for valuation data factors. Third and subsequent reviews are subject to additional plan review fees when approved by the "City Building Official" at hourly rates listed below. Payment will be made on a monthly basis from invoices provided to the CITY.

ADDITIONAL PLAN REVIEW SERVICE RATES

Building Official	\$100.00/hr
Deputy Building Official	\$95.00/hr
Plan Check Engineer (Structural)	\$95.00/hr
Supervising Plan Check Engineer	\$95.00/hr
Senior Plans Examiner	\$90.00/hr
Senior Civil Engineer	\$90.00/hr
Plan Check Engineer (Fire Protection)	\$82.00/hr
Inspector of Record (for 3 rd Party Reviews)	\$90.00/hr
Plans Examiner	\$70.00/hr
Supervising/Senior Building Inspector	\$80.00/hr
Building Inspector (Fire)	\$70.00/hr
Building Inspector II	\$70.00/hr
Building Inspector I	\$50.00/hr
Senior Construction Permit Specialist	\$60.00/hr
Construction Permit Specialist	\$50.00/hr
Clerical/Admin	\$40.00/hr

Expedited services are available. Plan review fees are double the regular plan review fee and double the regular hourly rate for third and subsequent reviews. For the additional fees the plan review will be completed in half the regular time.

Expedited inspection services available for double the regular hourly rates.

THIRD PARTY PLAN REVIEW AGREEMENT

(Brown & Associates and Applicant)

THIS AGREEMENT is made and entered into this ____ day of _____, 200_, by and between Brown & Associates, ("City Plan Checker") and _____ ("Applicant").

RECITALS

Whereas, the City of Goodyear (City) has a program wherein an applicant to City may contract directly with a qualified third party plan review and inspection firm to perform plan checking services on behalf of City;

Whereas, Applicant desires to enter into a Third Party Agreement with City Plan Checker to perform such plan checking services;

Whereas, City Plan Checker is experienced in providing such services for municipalities and is able to provide experienced personnel to carry out the duties involved;

NOW, THEREFORE, in consideration of the covenants and premises herein stated, it is agreed as follows:

- A. Applicant intends to construct: _____

- B. City Plan Checker shall be compensated for such services to City by direct payment from Applicant. Notwithstanding that Applicant is to compensate City Plan Checker directly, it is agreed that City Plan Checker's duties with respect to this project are to City as an official of the City, and not to Applicant. The compensation shall be as follows: _____

Such compensation to City Plan Checker shall not be in lieu of other fees as may be charged by City.

IN WITNESS WHEREOF, the parties execute this Agreement upon the terms and conditions stated above and the "PROVISIONS OF AGREEMENT" following the signatures below:

City Plan Checker: **BROWN & ASSOCIATES**

Applicant:

By: _____
Michael J. Brown, C.B.O.

By: _____

Title: President

Title: _____

CAUTION: PROVISIONS OF AGREEMENT APPEAR ON THE FOLLOWING PAGE

PROVISIONS OF AGREEMENT

1. Plan Review Services. City Plan Checker shall review the plans prepared by or on behalf of Applicant for compliance with City regulations normally enforced by the Building Official. When City so desires, City Plan Checker may maintain a liaison with other City departments in order that the requirements of those departments can be incorporated within such building plans. When satisfied that all building-related conditions of acceptance and the appropriate requirements of the City's regulations have been met, City Plan Checker shall advise the City Building City Plan Checker of its recommendation that permits may be issued by City.
2. This Agreement shall be binding upon the heirs, executors, administrators, successors, and assigns of each of the parties.
3. This Agreement shall not be assigned by any party without the prior written consent of the other parties.
4. This Agreement contains the entire Agreement between the parties relating to the Project and the provision of services to the project. Any prior Agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force or effect. Subsequent modifications to this Agreement shall be in writing and signed by all parties.
5. The waiver of any term, condition, or covenant, or breach of any term, condition, or covenant, shall not constitute the waiver of any other term, condition, or covenant, or the breach of any other term, condition or covenant.
6. If any term, condition, or covenant of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Agreement shall be valid and binding.
7. This Agreement shall be governed by and construed in accordance with the laws of the State of Arizona.
8. All original papers, documents, drawings, and other instruments of service of City Plan Checker, and copies thereof, produced by City Plan Checker pursuant to this Agreement, except documents which are required to be filed with public agencies, shall remain the property of City Plan Checker.
9. Applicant acknowledges that its right to utilize the services and work product provided pursuant to this Agreement will continue only so long as Applicant is not in default pursuant to the terms and conditions of this Agreement and Applicant has performed all obligations under this Agreement.
10. Upon written request, Applicant shall execute and deliver, or cause to be executed and delivered, such additional instruments, documents, governmental fees and charges which are necessary to perform the terms of this Agreement.
11. City Plan Checker makes no representations concerning soil conditions unless specifically included in writing in this Agreement, and City Plan Checker is not responsible for any liability that may arise out of the making or failure to make soil surveys, or sub-surface soil tests or general soil testing. City Plan Checker makes no representation concerning the past, present or future presence of hazardous waste or asbestos on the Project, and City Plan Checker is not responsible for any liability that may arise out of the making or failure to make tests or perform investigations concerning the same.
12. Applicant agrees not to use or permit any other person to use instruments of service prepared by City Plan Checker, which are not final and which are not signed, stamped or sealed by City Plan Checker. Applicant agrees to be liable and responsible for any such use of non-final instruments of service not signed, stamped or sealed by City Plan Checker and waives liability against City Plan Checker for their use. Applicant further agrees and final instruments of service are for the exclusive use of City and may be used by City only for the project described on the face hereof. Such final plans, drawings, or instruments of service may not be changed nor used on a different project without the written authorization or approval by City Plan Checker and City.
13. City Plan Checker has a right to complete all services agreed to be rendered under to this contract. In the event this contract is terminated prior to completion of all services, unless City Plan Checker is responsible for such termination, Applicant shall release City Plan Checker from all liability for work performed.
14. City Plan Checker shall be entitled to immediately, and without notice, suspend the performance of any and all of its obligations under this Agreement if Applicant files a voluntary petition seeking relief under the United States Bankruptcy Code or if there is an involuntary bankruptcy petition filed against client in the United States Bankruptcy Court, and that petition is not dismissed within fifteen (15) days of its filing. Any suspension of services may pursuant to the provisions of this paragraph shall continue until such time as this Agreement has been fully and properly assumed in accordance with the applicable provisions of the United States Bankruptcy Code and in compliance with the final order of judgment issued by the Bankruptcy Court.
15. This Agreement shall not be construed to alter, affect or waive any lien or stop notice right which City Plan Checker may have for the performance of services pursuant to this Agreement. Applicant agrees to separately provide to City Plan Checker the present name and address of the record owner of the project property. Applicant also agrees to separately provide City Plan Checker with the name and address of any and all lenders who would loan money on the project and who are entitled to receive a preliminary notice.

16. If Applicant fails to pay City Plan Checker within thirty (30) days after invoices are rendered, Applicant agrees City Plan Checker shall have the right to consider such default a material breach of this entire Agreement, and, upon written notice, the duties, obligations, and responsibilities of City Plan Checker under this Agreement are terminated. In such even, Applicant shall promptly pay City Plan Checker for all fees, charges, and services provided by City Plan Checker up to the date contract is terminated.

17. All fees and other charges are due upon completion of the first plan check unless otherwise specified in this Agreement.

18. Applicant agrees that the periodic billings from City Plan Checker to Applicant are correct, conclusive, and binding on client unless Applicant within thirty (30) days from the date of receipt of such billing, notifies City Plan Checker in writing of alleged inaccuracies, discrepancies, or errors in the billing.

19. Applicant agrees to pay a monthly late payment charge, which will be the lessor of , one and one-half percent (1-1/2%) per month, or a monthly charge not to exceed the maximum legal rate, which will be applied to any unpaid balance commencing thirty (30) days after the date of the original billing.

20. Applicant shall pay the costs of checking and inspection fees, zoning and annexation application fees, assessment fees, soils engineering fees, soils testing fees, aerial topography fees, and all other fees, permits, bond premiums, title company charges, blueprints and reproductions, and all other charges not specifically covered by the terms of this Agreement.

21. In the event all or any portion of the work prepared or partially prepared by City Plan Checker be suspended, abandoned or terminated, Applicant shall pay City Plan Checker for all fees, charges and services provided for the project, to the date of termination, not to exceed any contract limit specified herein. Applicant acknowledges if the project work is suspended, for a period of 60 days and restarts, there will be additional charges to suspension of the work which shall be paid for by Applicant as extra work.

22. City Plan Checker is not responsible for delay caused by activities or factors beyond City Plan Checker's reasonable control, including but not limited to, delays by reason of strikes, lockouts, work slowdowns, or stoppages, accidents, acts of God, failure of Applicant to furnish timely information, faulty performance by Applicant or contractors, or governmental agencies. When such delays beyond City Plan Checker's reasonable control occur, Applicant agrees City Plan Checker is not responsible in damages nor shall City Plan Checker be deemed to be in default of this Agreement.

23. In the event that any party institutes a suit against another, either by complaint or by way of cross-complaint, including a cross-complaint for indemnity, for alleged negligence, error, omission, or other failure to perform, the losing party will pay the prevailing party's attorneys fees and costs.

24. Applicant agrees that in the event Applicant institutes litigation to enforce or interpret the provisions of this Agreement, such litigation is to be brought and adjudicated in the appropriate court in the County in which City Plan Checker's principal place of business is located, and Applicant waives the right to bring, try, or remove such litigation to any other county or judicial district.

25. Applicant acknowledges that City Plan Checker is not responsible for the performance of work by third parties including, but not limited to, the construction contractor and its subcontractors.

26. Applicant acknowledges that City Plan Checker's scope of services for this project does not include any work related in any way to asbestos and/or other hazardous waste. Should City Plan Checker or any other party encounter such materials on the job site, or should it in any other way become known that such materials are present or may be present on the job site or any adjacent or nearby areas which may affect City Plan Checker's work, City Plan Checker may, at its option, terminate work on the project until such time as Applicant retains a specialist contractor to abate and/or remove the asbestos and/or hazardous waste materials and warrant that the job site is free from any hazard which may result from the existence of such materials.

27. Applicant agrees to save, keep harmless, indemnify and defend City, City Plan Checker and their officers, employees and agents from all claims, liability, damages and costs, including attorneys fees, caused by any act, error, or omission on the part of Applicant or on the part of its officers, employees, agents, consultants, contractors or subcontractors.

28. This Agreement shall be interpreted as though prepared by all parties.

THIRD PARTY INSPECTION AGREEMENT

(Brown & Associates and Applicant)

THIS AGREEMENT is made and entered into this ____ day of _____, 200_, by and between Brown & Associates, ("City Inspector") and _____ ("Applicant").

RECITALS

Whereas, the City of Goodyear (City) has a program wherein an applicant to City may contract directly with a qualified third party plan review and inspection firm to perform inspection services on behalf of City;

Whereas, Applicant desires to enter into a Third Party Agreement with City Inspector to perform such inspection services;

Whereas, City Inspector is experienced in providing such services for municipalities and is able to provide experienced personnel to carry out the duties involved;

NOW, THEREFORE, in consideration of the covenants and premises herein stated, it is agreed as follows:

- A. Applicant intends to construct: _____

- B. City Inspector shall be compensated for such services to City by direct payment from Applicant. Notwithstanding that Applicant is to compensate City Inspector directly, it is agreed that City Inspector's duties with respect to this project are to City as an official of the City, and not to Applicant. The compensation shall be as follows: _____

Such compensation to City Inspector shall not be in lieu of other fees as may be charged by City.

IN WITNESS WHEREOF, the parties execute this Agreement upon the terms and conditions stated above and the "PROVISIONS OF AGREEMENT" following the signatures below:

City Inspector: **BROWN & ASSOCIATES**

Applicant:

By: _____
Michael J. Brown, C.B.O.

By: _____

Title: President

Title: _____

CAUTION: PROVISIONS OF AGREEMENT APPEAR ON THE FOLLOWING PAGE

PROVISIONS OF AGREEMENT

1. Inspection Services. City Inspector shall review the plans prepared by or on behalf of Applicant for compliance with City regulations normally enforced by the Building Official. When City so desires, City Inspector may maintain a liaison with other City departments in order that the requirements of those departments can be incorporated within such building plans. When satisfied that all building-related conditions of acceptance and the appropriate requirements of the City's regulations have been met, City Inspector shall advise the City Building City Inspector of its recommendation that permits may be issued by City.
2. This Agreement shall be binding upon the heirs, executors, administrators, successors, and assigns of each of the parties.
3. This Agreement shall not be assigned by any party without the prior written consent of the other parties.
4. This Agreement contains the entire Agreement between the parties relating to the Project and the provision of services to the project. Any prior Agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force or effect. Subsequent modifications to this Agreement shall be in writing and signed by all parties.
5. The waiver of any term, condition, or covenant, or breach of any term, condition, or covenant, shall not constitute the waiver of any other term, condition, or covenant, or the breach of any other term, condition or covenant.
6. If any term, condition, or covenant of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Agreement shall be valid and binding.
7. This Agreement shall be governed by and construed in accordance with the laws of the State of Arizona.
8. All original papers, documents, drawings, and other instruments of service of City Inspector, and copies thereof, produced by City Inspector pursuant to this Agreement, except documents which are required to be filed with public agencies, shall remain the property of City Inspector.
9. Applicant acknowledges that its right to utilize the services and work product provided pursuant to this Agreement will continue only so long as Applicant is not in default pursuant to the terms and conditions of this Agreement and Applicant has performed all obligations under this Agreement.
10. Upon written request, Applicant shall execute and deliver, or cause to be executed and delivered, such additional instruments, documents, governmental fees and charges which are necessary to perform the terms of this Agreement.
11. City Inspector makes no representations concerning soil conditions unless specifically included in writing in this Agreement, and City Inspector is not responsible for any liability that may arise out of the making or failure to make soil surveys, or sub-surface soil tests or general soil testing. City Inspector makes no representation concerning the past, present or future presence of hazardous waste or asbestos on the Project, and City Inspector is not responsible for any liability that may arise out of the making or failure to make tests or perform investigations concerning the same.
12. Applicant agrees not to use or permit any other person to use instruments of service prepared by City Inspector, which are not final and which are not signed, stamped or sealed by City Inspector. Applicant agrees to be liable and responsible for any such use of non-final instruments of service not signed, stamped or sealed by City Inspector and waives liability against City Inspector for their use. Applicant further agrees and final instruments of service are for the exclusive use of City and may be used by City only for the project described on the face hereof. Such final plans, drawings, or instruments of service may not be changed nor used on a different project without the written authorization or approval by City Inspector and City.
13. City Inspector has a right to complete all services agreed to be rendered under to this contract. In the event this contract is terminated prior to completion of all services, unless City Inspector is responsible for such termination, Applicant shall release City Inspector from all liability for work performed.
14. City Inspector shall be entitled to immediately, and without notice, suspend the performance of any and all of its obligations under this Agreement if Applicant files a voluntary petition seeking relief under the United States Bankruptcy Code or if there is an involuntary bankruptcy petition filed against client in the United States Bankruptcy Court, and that petition is not dismissed within fifteen (15) days of its filing. Any suspension of services may pursuant to the provisions of this paragraph shall continue until such time as this Agreement has been fully and properly assumed in accordance with the applicable provisions of the United States Bankruptcy Code and in compliance with the final order of judgment issued by the Bankruptcy Court.
15. This Agreement shall not be construed to alter, affect or waive any lien or stop notice right which City Inspector may have for the performance of services pursuant to this Agreement. Applicant agrees to separately provide to City Inspector the present name and address of the record owner of the project property. Applicant also agrees to separately provide City Inspector with the name and address of any and all lenders who would loan money on the project and who are entitled to receive a preliminary notice.

16. If Applicant fails to pay City Inspector within thirty (30) days after invoices are rendered, Applicant agrees City Inspector shall have the right to consider such default a material breach of this entire Agreement, and, upon written notice, the duties, obligations, and responsibilities of City Inspector under this Agreement are terminated. In such even, Applicant shall promptly pay City Inspector for all fees, charges, and services provided by City Inspector up to the date contract is terminated.
17. All fees and other charges are due upon completion of the first plan check unless otherwise specified in this Agreement.
18. Applicant agrees that the periodic billings from City Inspector to Applicant are correct, conclusive, and binding on client unless Applicant within thirty (30) days from the date of receipt of such billing, notifies City Inspector in writing of alleged inaccuracies, discrepancies, or errors in the billing.
19. Applicant agrees to pay a monthly late payment charge, which will be the lessor of , one and one-half percent (1-1/2%) per month, or a monthly charge not to exceed the maximum legal rate, which will be applied to any unpaid balance commencing thirty (30) days after the date of the original billing.
20. Applicant shall pay the costs of checking and inspection fees, zoning and annexation application fees, assessment fees, soils engineering fees, soils testing fees, aerial topography fees, and all other fees, permits, bond premiums, title company charges, blueprints and reproductions, and all other charges not specifically covered by the terms of this Agreement.
21. In the event all or any portion of the work prepared or partially prepared by City Inspector be suspended, abandoned or terminated, Applicant shall pay City Inspector for all fees, charges and services provided for the project, to the date of termination, not to exceed any contract limit specified herein. Applicant acknowledges if the project work is suspended, for a period of 60 days and restarts, there will be additional charges to suspension of the work which shall be paid for by Applicant as extra work.
22. City Inspector is not responsible for delay caused by activities or factors beyond City Inspector's reasonable control, including but not limited to, delays by reason of strikes, lockouts, work slowdowns, or stoppages, accidents, acts of God, failure of Applicant to furnish timely information, faulty performance by Applicant or contractors, or governmental agencies. When such delays beyond City Inspector's reasonable control occur, Applicant agrees City Inspector is not responsible in damages nor shall City Inspector be deemed to be in default of this Agreement.
23. In the event that any party institutes a suit against another, either by complaint or by way of cross-complaint, including a cross-complaint for indemnity, for alleged negligence, error, omission, or other failure to perform, the losing party will pay the prevailing party's attorneys fees and costs.
24. Applicant agrees that in the event Applicant institutes litigation to enforce or interpret the provisions of this Agreement, such litigation is to be brought and adjudicated in the appropriate court in the County in which City Inspector's principal place of business is located, and Applicant waives the right to bring, try, or remove such litigation to any other county or judicial district.
25. Applicant acknowledges that City Inspector is not responsible for the performance of work by third parties including, but not limited to, the construction contractor and its subcontractors.
26. Applicant acknowledges that City Inspector's scope of services for this project does not include any work related in any way to asbestos and/or other hazardous waste. Should City Inspector or any other party encounter such materials on the job site, or should it in any other way become known that such materials are present or may be present on the job site or any adjacent or nearby areas which may affect City Inspector's work, City Inspector may, at its option, terminate work on the project until such time as Applicant retains a specialist contractor to abate and/or remove the asbestos and/or hazardous waste materials and warrant that the job site is free from any hazard which may result from the existence of such materials.
27. Applicant agrees to save, keep harmless, indemnify and defend City, City Inspector and their officers, employees and agents from all claims, liability, damages and costs, including attorneys fees, caused by any act, error, or omission on the part of Applicant or on the part of its officers, employees, agents, consultants, contractors or subcontractors.
28. This Agreement shall be interpreted as though prepared by all parties.

DATE (MM/DD/YYYY)
12/12/2003

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURERS AFFORDING COVERAGE

NAIC #

INSURER A: Hartford Fire Insurance Co

19682	
-------	--

INSURER B. World Wide Facilities, Inc.

INSURER C

INSURER D:

INSURER E:

COVERAGES

COVERAGES:
THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD'L LTR INSR		TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A	X	GENERAL LIABILITY	59SBAEF1925	05/17/2003	05/17/2004	EACH OCCURRENCE	\$ 1,000,000
		<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY				DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 300,000
		<input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR				MED EXP (Any one person)	\$ 10,000
						PERSONAL & ADV INJURY	\$ 1,000,000
						GENERAL AGGREGATE	\$ 2,000,000
		GEN'L AGGREGATE LIMIT APPLIES PER				PRODUCTS - COMP/OP AGG	\$ 2,000,000
		<input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC					
		AUTOMOBILE LIABILITY				COMBINED SINGLE LIMIT (Ea accident)	\$
		<input type="checkbox"/> ANY AUTO				BODILY INJURY (Per person)	\$
		<input type="checkbox"/> ALL OWNED AUTOS				BODILY INJURY (Per accident)	\$
		<input type="checkbox"/> SCHEDULED AUTOS				PROPERTY DAMAGE (Per accident)	\$
		<input type="checkbox"/> HIRED AUTOS					
		<input type="checkbox"/> NON-OWNED AUTOS					
		GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT	\$
		<input type="checkbox"/> ANY AUTO				OTHER THAN AUTO ONLY EA ACC	\$
						AGG	\$
		EXCESS/UMBRELLA LIABILITY				EACH OCCURRENCE	\$
		<input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE				AGGREGATE	\$
							\$
		<input type="checkbox"/> DEDUCTIBLE					\$
		<input type="checkbox"/> RETENTION \$					\$
		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY				<input type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTH-ER	
		ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED?				E L EACH ACCIDENT	\$
		If yes, describe under SPECIAL PROVISIONS below				E L DISEASE - EA EMPLOYEE	\$
						E L DISEASE - POLICY LIMIT	\$
B		OTHER Professional Liability	ME03308/A/B	08/18/2003	08/18/2004	1,000,000/1,000,000	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS
City of Goodyear as Additional Insured.

CERTIFICATE HOLDER

City of Goodyear
190 N. Litchfield Rd.
P.O. Box 5100
Goodyear, AZ 85338

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

Donna Hilker

CERTIFICATE OF INSURANCE

SUCH INSURANCE AS RESPECTS THE INTEREST OF THE CERTIFICATE HOLDER WILL NOT BE CANCELED OR OTHERWISE TERMINATED WITHOUT GIVING 10 DAYS PRIOR WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED BELOW, BUT IN NO EVENT SHALL THIS CERTIFICATE BE VALID MORE THAN 30 DAYS FROM THE DATE WRITTEN. THIS CERTIFICATE OF INSURANCE DOES NOT CHANGE THE COVERAGE PROVIDED BY ANY POLICY DESCRIBED BELOW.

This certifies that:

- ☒ STATE FARM INSURANCE AUTOMOBILE INSURANCE COMPANY of Bloomington, Illinois, or
☐ STATE FARM FIRE AND CASUALTY COMPANY of Bloomington, Illinois

has coverage in force for the following Named Insured as shown below:

Named Insured MICHAEL BROWN DBA BROWN & ASSOCIATES

Address of Named Insured 7022 E JOAN DE ARC AVE

SCOTTSDALE, AZ 85254

POLICY NUMBER	057-9451-C19-03	0057-9450-C19-03		
EFFECTIVE DATE OF POLICY	09-19-03	09-19-03		
DESCRIPTION OF VEHICLE	03 FORD EXPLORER	03 FORD EXPLORER		
LIABILITY COVERAGE	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO
LIMITS OF LIABILITY				
a Bodily Injury				
Each Person	1,000,000	1,000,000		
Each Accident	1,000,000	1,000,000		
b Property Damage				
Each Accident	1,000,000	1,000,000		
c Bodily Injury & Property Damage				
Single limit				
Each Accident	1,000,000			
PHYSICAL DAMAGE COVERAGES				
a Comprehensive	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO \$ 1,000 Deductible	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO \$ 1,000 Deductible	<input type="checkbox"/> YES <input type="checkbox"/> NO \$ Deductible	<input type="checkbox"/> YES <input type="checkbox"/> NO \$ Deductible
b Collision	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO \$ 1,000 Deductible	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO \$ 1,000 Deductible	<input type="checkbox"/> YES <input type="checkbox"/> NO \$ Deductible	<input type="checkbox"/> YES <input type="checkbox"/> NO \$ Deductible
EMPLOYER'S NON-OWNERSHIP COVERAGE	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO
HIRED CAR COVERAGE	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO

Signature of Authorized Representative

AGENT
Title

1731
Agent's Code Number

12/12/03
Date

Name and Address of Certificate Holder

Name and Address of Agent

CITY OF GOODYEAR
190 N LITCHFIELD RD
GOODYEAR, AZ 85338

JACK HALLAM INS AGCY INC
28230 N TATUM BLVD STE C1
CAVE CREEK, AZ 85331

1 **AGREEMENT FOR PROFESSIONAL SERVICES**

2 **THIS AGREEMENT**, made and entered into this ____ day of _____, by and between
3 the City of Goodyear (hereinafter "CITY"), located in the County of Maricopa, State of Arizona, and
4 Linhart Petersen Powers Associates (hereinafter "CONSULTANT"), whose address is 6088 Sunol
5 Boulevard, Suite 100, Pleasanton, CA 94566.

6 **THE PARTIES ENTER INTO THIS AGREEMENT** based upon the following facts,
7 understandings and intentions:

8 The CITY desires to contract with **CONSULTANT** and **CONSULTANT** to contract with the
9 CITY for provision by **CONSULTANT** to the CITY for professional services as further described
10 herein, upon the terms and conditions hereinafter set forth.

11 **NOW, THEREFORE, IN CONSIDERATION** of the mutual covenants and promises of the
12 parties herein contained, the parties hereto agree as follows:

13 1. SERVICES

14 **CONSULTANT** shall provide services for specific projects as may be requested by CITY;
15 such services shall be defined, scheduled, and authorized in subsequent Task Orders. Services may
16 include, but not be limited to:

- 17 • Provide technical personnel to perform plan review and inspection duties for compliance with
18 Goodyear Municipal Code, Mitigation Measures, Conditions of Approval, and other applicable
19 local, state and federal standards
• Hold meetings with developer or designer and City
• Hold other meetings as required
20 • Prepare all appropriate letters and reports related to the proposed work
• Receive all project-related correspondence from the developer or designer
21 • Facilitate communication between appropriate City staff, developer/designer, businesses, and
22 residents during the plan review phase
• Coordinate internal review of developer/designer submittals, including other departments and their
23 comments, and returning comments to developer/designer
• Provide and maintain project documentation, to be supplied to City at end of work
24 • Submit updates on project status, as requested, to Chief Building Official

25 **CONSULTANT** shall be an independent contractor and shall have responsibility for and
26 control over the details and means of providing its services under this Agreement. **CONSULTANT**
27 agrees that its services shall be performed with due diligence and in accordance with generally
28

1 accepted engineering practices.

2 CONSULTANT shall use its best efforts to perform and coordinate all activities in a timely
3 manner so that the projects will be completed according to the established project schedules.

4 2. AUTHORIZED REPRESENTATIVES.

5 CITY'S authorized representative shall be the City Manager or his/her designee.

6 CONSULTANT'S authorized representative shall be FRANK LINHART.

7 3. COMPENSATION.

8 *(Attach Exhibit stating Plan Review and Inspection Fees)*

9 CONSULTANT may submit monthly statements for services rendered. It is intended that
10 payments to CONSULTANT will be made by CITY within thirty (30) days of receipt of valid invoice.

11 4. INDEMNIFICATION.

12 CONSULTANT agrees to defend, indemnify and hold harmless the CITY, its officers, agents,
13 employees and volunteers from and against any and all claims, demands, actions, losses, damages,
14 injuries, and liability (including all reasonable attorney's fees and other litigation expenses) arising out
15 of the negligent acts or omissions of CONSULTANT in the performance of this AGREEMENT.

16 5. OWNERSHIP AND MAINTENANCE OF DOCUMENTS.

17 All documents furnished by CONSULTANT pursuant to this AGREEMENT are instruments
18 of CONSULTANT's services in respect to this project. They are not intended nor represented to be
19 suitable for reuse by others on extensions of this project or on any other project. Any reuse without
20 specific written verification and adoption by CONSULTANT for the specific purposes intended will
21 be at user's sole risk and without liability or legal exposure and expenses to CONSULTANT,
22 including attorney's fees arising out of such unauthorized reuse.

23 CONSULTANT's records, documents, calculations, and all other instruments of service
24 pertaining to actual project shall be given to CITY at the completion of the project. The CITY
25 reserves the right to specify the file format that electronic document deliverables are presented to the
26 CITY.

27 6. STANDARD OF PERFORMANCE.

28 CONSULTANT represents to CITY that the services shall be performed in an expeditious

manner, and with the degree of skill and care that is required by current, good, and sound procedures and practices. CONSULTANT further agrees that the services shall be in conformance with generally accepted professional standards prevailing at the time work is performed.

7. INSURANCE REQUIRED.

CONSULTANT shall, at its own expense, procure and maintain in full force at all times during the term of this AGREEMENT the following insurance:

A. Commercial General Liability Coverage. CONSULTANT shall maintain commercial general liability insurance with limits of no less than one million dollars (\$1,000,000) combined single limit per occurrence or two million dollars (\$2,000,000) aggregate limit for bodily injury, personal injury, and property damage.

B. Automobile Liability Coverage. CONSULTANT shall maintain automobile liability insurance covering all vehicles used in the performance of this AGREEMENT providing a one million dollar (\$1,000,000) combined single limit per occurrence for bodily injury, personal injury, and property damage.

C. Professional Liability Coverage. CONSULTANT shall maintain professional liability insurance with coverage for all negligent errors, acts or omissions committed by CONSULTANT, its agents and employees in the performance of this AGREEMENT. The amount of this insurance shall be not less than five hundred thousand dollars (\$500,000) on a claims made annual aggregate basis or a combined single limit per occurrence basis.

D. Compliance with State Workers' Compensation Requirements. CONSULTANT covenants that it will insure itself against liability for Workers' Compensation pursuant to the provisions of Arizona Labor Code. CONSULTANT shall, at all times, upon demand of the City Council and properly authorized agents, furnish proof that Workers' Compensation Insurance is being maintained by it in force and effect in accordance with the Arizona Labor Code.

E. Other Insurance Provisions. The policies are to contain, or be endorsed to contain the following provisions:

(1) CITY, its officers, agents, employees, and volunteers are to be covered

1 as additional insureds as respects: Liability arising out of activities performed by or on
2 behalf of CONSULTANT and operations of CONSULTANT, premises owned,
3 occupied, or used by CONSULTANT. The coverage shall contain no special
4 limitations on the scope or protection afforded to CITY, its officers, officials,
5 employees, or volunteers.

6 (2) CONSULTANT's insurance coverage shall be primary insurance with
7 respect to CITY, its officers, officials, employees, and volunteers. Any insurance, risk
8 pooling arrangement, or self-insurance maintained by CITY, its officers, officials,
9 employees, or volunteers shall be in excess of CONSULTANT's insurance and shall
10 not contribute with it.

11 (3) Any failure to comply with the reporting provisions of the policy shall
12 not affect the coverage provided to the CITY, its officers, officials, employees, or
13 volunteers.

14 (4) The aforementioned policies shall be issued by an insurance carrier
15 having a rating of Best A-7 or better which is satisfactory to the City Risk Manager and
16 shall be delivered to CITY at the time of the execution of this AGREEMENT or as
17 provided below. In lieu of actual delivery of such policies, a Certificate issued by the
18 insurance carrier showing such policy to be in force for the period covered by the
19 AGREEMENT may be delivered to CITY. Such policies and certificates shall be in a
20 form approved by the City Risk Manager. Except for worker's compensation and
21 professional liability insurance, the policies mentioned in this subsection shall name
22 CITY as an additional insured and provide for thirty (30) days notice of cancellation to
23 CITY. Said policies shall not be canceled earlier than, nor the amount of coverage
24 reduced earlier than, thirty (30) days after the CITY receives notices from the insured
25 of the intent of cancellation or reduction.

26 8. SUSPENSION OF WORK.

27 CITY may, at any time, by ten (10) days' written notice, suspend further performance by
28 CONSULTANT. All suspensions shall extend the time schedule for performance in a mutually

satisfactory manner, and CONSULTANT shall be paid for services performed and reimbursable expenses incurred prior to the suspension date. During the period of suspension, CONSULTANT shall not receive any payment for services, or expenses, except for reasonable administration expenses, incurred by CONSULTANT by reason of such suspension.

9. COMPLIANCE WITH CIVIL RIGHTS.

During the performance of this contract, CONSULTANT agrees as follows:

A. Equal Employment Opportunity. In connection with the execution of this AGREEMENT, CONSULTANT shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, or national origin. Such actions shall include, but not be limited to, the following: employment, promotion, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rate of pay or other forms of compensation; and selection for training including apprenticeship.

B. Nondiscrimination Civil Rights Act of 1964. CONSULTANT will comply with all federal regulations relative to nondiscrimination in federally assisted programs.

C. Solicitations for Subcontractors including Procurement of Materials and Equipment. In all solicitation, either by competitive bidding or negotiations, made by CONSULTANT for work to be performed under a subcontract including procurement of materials or leases of equipment, each potential subcontractor, supplier or lessor shall be notified by CONSULTANT of CONSULTANT's obligation under this AGREEMENT and the regulations relative to nondiscrimination on the grounds of race, religion, color, sex, or national origin.

10 INDEPENDENT CONTRACTOR.

In assuming and performing the services, CONSULTANT is an independent contractor and shall not be eligible for any benefits, which the CITY may provide its employees, except as expressly provided for in the AGREEMENT. All persons, if any, hired by CONSULTANT shall be employees or subcontractors of CONSULTANT and shall not be construed as employees or agents of the CITY in any respect. CONSULTANT shall have responsibility for and control over the means of providing services under this AGREEMENT.

1 11. COMPLIANCE WITH LAWS.

2 CONSULTANT shall comply with all applicable federal, State of Arizona, and local laws,
3 rules, and regulations and shall obtain all applicable licenses and permits for the conduct of its
4 business and the performance of the services.

5 12 CHOICE OF LAWS.

6 This AGREEMENT shall be construed and interpreted in accordance with the laws of the State
7 of Arizona, excluding any choice of law rules, which may direct the application of the laws of another
8 jurisdiction.

9 13. NON-WAIVER.

10 The waiver by either party of any breach of any term, covenant, or condition contained in the
11 AGREEMENT, or any default in their performance of any obligations under the AGREEMENT shall
12 not be deemed to be a waiver of any other breach or default of the same or any other term, covenant,
13 condition, or obligation, nor shall any waiver of any incident of breach of default constitute a
14 continuing waiver of same.

15 14. ENFORCEABILITY.

16 In the event that any of the provisions or portions of application of any of the provisions of the
17 AGREEMENT are held to be illegal or invalid by a court of competent jurisdiction, CITY and
18 CONSULTANT shall negotiate an equitable adjustment in the provisions of the AGREEMENT with a
19 view toward effecting the purpose of the AGREEMENT. The illegality or invalidity of any of the
20 provisions or portions of application of any of the provisions of the AGREEMENT shall not affect the
21 legality or enforceability of the remaining provisions or portions of application of any of the
22 provisions of the AGREEMENT.

23 15. INTEGRATION.

24 The AGREEMENT contains the entire AGREEMENT and understanding between the parties
25 as to the subject matter of this AGREEMENT. It merges and supersedes all prior or contemporaneous
26 agreements, commitments, representation, writings, and discussions between CONSULTANT and
27 CITY, whether oral or written.

28 16. SUCCESSORS AND ASSIGNS.

CITY and CONSULTANT respectively, bind themselves, their successors, assigns, and legal representatives. CONSULTANT shall not assign or transfer any interest in the AGREEMENT without the CITY's prior written consent, which consent shall be in the CITY's sole discretion. Any attempted assignment or transfer in breach of this provision shall be void.

17. ATTORNEY'S FEES

If either party to this AGREEMENT commences any legal action against the other party arising out of this AGREEMENT, the prevailing party shall be entitled to recover its reasonable litigation expenses, including court costs, expert witness fees, discovery expenses, and attorney's fees.

18. FINANCIAL RECORDS.

Records of CONSULTANT's direct labor costs, payroll costs, and reimbursable expenses pertaining to this project covered by this AGREEMENT will be kept on a generally recognized accounting basis and made available to CITY if and when required.

19. NOTICE.

All notices required hereunder shall be in writing and mailed postage prepaid by Certified or Registered mail, return receipt requested, or by personal delivery to the CITY's address as shown below, or such other places as CITY or CONSULTANT may, from time to time, respectively, designate in a written notice given to the other. Notice shall be deemed received three (3) days after the date of the mailing thereof or upon personal delivery.

To CITY: **Steve Burger, Chief Building Official**
 City of Goodyear
 Building Safety Division
 190 N. Litchfield Road
 Goodyear, AZ 85338

To CONSULTANT: **Frank Linhart, Principal**
 Linhart Petersen Powers Associates
 6088 Sunol Boulevard, Suite 100
 Pleasanton, CA 94566

20. TERM.

The Agreement may be terminated by either party with or without cause at any time after

1 providing the other party no less than thirty (30) days notice in writing via certified mail. In the event
2 of such termination, CONSULTANT shall be compensated for such authorized services up to the
3 point of termination. Any reports or other written, recorded, photographic, or visual materials and
4 other deliverables prepared for the CITY prior to the effective date of such termination shall be
5 promptly delivered to the CITY by CONSULTANT.

6
7 22. CONFLICT OF INTEREST: This Agreement shall be subject to cancellation pursuant to the
8 provisions of A.R.S. § 38-511 in the event of a conflict of interest.

9 \\\

10 \\\

11 \\\

12 \\\

13 \\\

14 **IN WITNESS WHEREOF**, the parties have executed this AGREEMENT in three (3) copies
15 as of the date and year first written above.

16
17 **CONSULTANT**

CITY OF GOODYEAR

18
19 By: 

By: _____

20 Name: Frank Linhart
21 Title: Principal
22 Address: 6088 Sunol Boulevard, Suite 100
23 Pleasanton, CA 94566
24 Phone: (925) 226-1320

Name:
Title
Address:
Phone:

25 APPROVED AS TO FORM:

ATTEST:

26 _____
City Attorney

City Clerk

EXHIBIT A SCHEDULE OF FEES

Plan Review Fixed Fees

Fees for comprehensive plan reviews, performed at LP²A offices, will be as calculated per the model building codes and ordinances that have been adopted by the City of Goodyear, at the time the project is submitted to the jurisdiction for review. The City of Goodyear Building Department will provide LP²A valuation information (project-by-project) for use in calculating LP²A's fees, but on occasions where LP²A is asked to confirm the applicant's valuation, we will be able to calculate the fees per the latest version of the Building Safety Journal, Building Valuation Data.

The above fee covers all services associated with the typical plan review, including:

- Pick-up and delivery of design documents to the jurisdiction.
- First, second, and third "quick" reviews, if necessary, to approve projects.
- Pre-application, pre-construction, or additional meeting attendance, which are necessary for unusual or complex projects.

Fees for complete plan reviews performed at LP²A offices will be equal to seventy-five (75%) of the plan review fees as calculated per the jurisdiction. This fee covers all services associated with the typical plan review, as well as pick-up and delivery of design documents. All plans shall be reviewed to the latest jurisdiction-adopted versions of the model building codes, local ordinances and State of Arizona amendments.

It should be noted that included in this fee would be the review of standard fire code items such as spray booths, commercial kitchen hoods, and similar simple fire items. When identified by the City of Goodyear, or confirmed by the jurisdiction upon request from LP²A, difficult or complex fire systems shall be reviewed concurrently (or under separate submittal package) by a registered Fire Protection Engineer. As these projects would be identified as outside of the typical building code review, additional fire plan reviews will be completed based upon the following fixed fee schedule (however a percentage based fee, agreed upon with the City of Goodyear Fire Department may also be used in these instances):

Fire Protection Systems

- 25 heads or less \$100.00
- More than 25 heads \$200.00 per riser plus
\$200.00 per hydraulic calculation

<i>Hood Duct System</i>	\$200.00
<i>Spray Paint Booths</i>	\$200.00
<i>Nitrous Oxide System</i>	\$200.00
<i>Gas Suppression System</i>	\$300.00

Fire Alarm Systems

- First 10,000 square feet \$180.00
- Each additional 10,000 square feet \$180.00 plus
\$30.00 per 10,000 square feet

<i>Monitoring / Alarm T.I. System</i>	\$200.00
<i>Tank Installation</i>	\$200.00

Associated fire plan review for special or complex occupancies, such as malls, high-rise buildings, or hazardous occupancies, will be reviewed based upon a time and material format at the billable rate of \$100.00 per hour.

In addition, LP²A plan reviewers are available for occasional, as-needed, on-site plan review or field observation of work under construction. LP²A also has the capabilities to perform other plan review services related to civil engineer review of grading and drainage projects, or structural upgrades and repair projects.

Plan Review Hourly Fees

Fees using the current hourly rates (see schedule of charges) will be used for plan reviews, which require more than a first and second review to approve the project.

These hourly rates may also be applied to special project fees when mutually agreed between the Building Official and LP²A Project Manager or Principal. Special projects would include, but not be limited to, reviews of shop drawings, civil engineering grading and drainage plans, elements of structural, mechanical, electrical or plumbing designs, or project types that are not easily classified in the Building Safety Journal, Building Valuation classifications (i.e., generators, storage racks, roof screens, etc.).

Building and Fire Inspection Fees

Fees using the current hourly rates (see schedule of charges) will be used for building inspection services. Additional arrangements and fee structures can be determined for overtime or weekend inspections, as approved by the jurisdiction on a case-by-case basis.

Third Party/Expedited Plan Review Fees

When determined to be appropriate by the City of Goodyear, LP²A would be willing to perform third party plan reviews directly with the applicant. In such instances the standard third-party plan review agreement (see attached) would be completed by the applicant, and returned to LP²A with a pre-determined turnaround schedule for the review. The fee for such reviews may be a percentage of the building valuation or a fixed fee, but in both cases the rate shall be independent of any fees collected by the jurisdiction.

If desired by the City of Goodyear or the applicant, LP²A could also perform these third party plan reviews on an expedited schedule, for a premium fee based the time reductions requested. The extent to which LP²A could expedite plan reviews would be dependent upon current workloads and the complexity of the project. Fees for expedited plan reviews would normally be fixed fee amount.

Third Party Inspection Fees

When determined to be appropriate by the City of Goodyear, LP²A would be willing to perform third party inspections directly with the applicant. In such instances the standard third-party inspection agreement (see attached) would be completed by the applicant, and returned to LP²A with a pre-determined rate schedule for the project. The fees for such inspections would normally be on an hourly rate charge, but in some instances a fixed, minimum or not to exceed fee may be applied. With third party inspections, the rate will be independent of any fees collected by the jurisdiction.

Schedule of Charges

The following rates are reviewed each January. If modified at that time, the rate schedule shall be reissued, but any adjustments to the rates would need to be approved by the City of Goodyear prior to implementation. Unless other arrangements have been made, charges to all projects including those continuing from the previous Schedule of Charges will be based on the latest schedule available.

PERSONNEL CHARGES

Personnel Description	Hourly Billing Rate
<i>Principal</i>	\$120
<i>Supervising Plan Review Engineer/Associate</i>	\$90
<i>Senior Plan Review Engineer/Architect</i>	\$85
<i>Plan Review Engineer/Architect</i>	\$85
<i>Senior Plans Examiner</i>	\$80
<i>Plans Examiner</i>	\$75
<i>Supervisor of Inspectors</i>	\$85
<i>Senior Building Inspector</i>	\$75
<i>Building Inspector</i>	\$70
<i>Senior Fire Protection Engineer/Consultant</i>	\$120
<i>Fire Protection Engineer/Consultant</i>	\$100
<i>Clerical Support</i>	\$40

Personnel charges are for technical work. Direct charges are not made for general secretarial services, office management, accounting and maintenance since these items are included in overhead.

Multiple or fractions of hourly rates shall be exact to one-half of an hour, or as a percentage of work completed.



THIRD PARTY PLAN REVIEW AGREEMENT

THIS AGREEMENT, made and entered into this ____ day of _____, 2004, by and between _____, hereinafter referred to as the ("Applicant"), and Linhart Petersen Powers Associates (LP²A) hereinafter referred to as the ("Jurisdiction Plan Reviewer").

WITNESSETH:

Whereas, County/City of _____ ("Jurisdiction"), allows an applicant to contract directly with a qualified third party plan reviewing firm to perform such plan reviewing services;

Whereas, Applicant desires to enter into a third party agreement with Jurisdiction Plan Reviewer to perform such plan reviewing services;

Whereas, Jurisdiction Plan Reviewer is qualified to provide such services in accordance with the terms and conditions hereinafter set forth;

NOW, THEREFORE, the parties hereto agree to follows:

A. Applicant intends to: _____ (hereinafter called the "Project"). Jurisdiction Plan Reviewer agrees to perform the following services for the jurisdiction with respect to the project: **Plan review for conformance to the Building Codes currently amended by the State of Arizona and the City of Goodyear.**

B. Applicant agrees to compensate Jurisdiction Plan Reviewer by direct payment. Such compensation to Jurisdiction Plan Reviewer shall not be in lieu of other fees charged by the Jurisdiction. The Applicant further agrees that Jurisdiction Plan Reviewer's responsibilities with respect to this project are to the Jurisdiction as an official of the Jurisdiction, and not to the Applicant. The compensation for such services shall be as follows: _____

IN WITNESS WHEREOF, the parties hereby execute this agreement upon the terms and conditions stated above and the "PROVISIONS OF AGREEMENT" following the signatures below.

Jurisdiction Plan Reviewer:
LINHART PETERSEN POWERS ASSOCIATES

Applicant:

By: _____
Kevin M. Powers, P.E.

By: _____
(name)

Title: Principal

Title: _____

LP²A Job Number ____

SEE THE REVERSE SIDE OF THIS AGREEMENT FOR THE PROVISIONS OF AGREEMENT

4. Jurisdiction Plan Reviewer shall review the plans prepared by or on behalf of Applicant for compliance with Jurisdiction regulations normally enforced by the building official. When Jurisdiction so desires, Jurisdiction Plan Reviewer may maintain a liaison with other Jurisdiction departments in order that the requirements of those departments can be incorporated within such building plans. When satisfied that all building related conditions of acceptance and the appropriate requirements of the Jurisdiction's regulations have been met, Jurisdiction Plan Reviewer shall advise the Building Department Jurisdiction Plan Reviewer of its recommendation that permits may be issued by Jurisdiction.

2. This agreement shall be binding upon the heirs, executors, administrators, successors and assigns of each of the parties.

3. This agreement shall not be assigned by any party without the prior written consent of the other parties.

4. This agreement contains the entire agreement between the parties relating to the Project and the provision of services to the Project. Any prior agreements, promises, negotiations or representations not expressly set forth in this agreement are of no force or effect. Subsequent modifications to this agreement shall be in writing and signed by all parties.

5. The waiver of any term, condition, or covenant, or breach of any term, condition, or covenant, shall not constitute the waiver of any other term, condition, or covenant, or the breach of any other term, condition, or covenant.

6. If any term, condition, or covenant of this agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this agreement shall be valid and binding.

7. This agreement shall be governed by and construed in accordance with the laws of the State of Arizona.

8. All original papers, documents, drawings and other instruments of service of Jurisdiction Plan Reviewer, and copies thereof, produced by Jurisdiction Plan Reviewer pursuant to this agreement, except documents which are required to be filed with public agencies, shall remain the property of Jurisdiction Plan Reviewer.

9. Applicant acknowledges that its right to utilize the services and work product provided pursuant to this agreement will continue only so long as Applicant is not in default pursuant to the terms and conditions of this agreement and Applicant has performed all obligations under this agreement.

10. Upon written request, Applicant shall execute and deliver, or cause to be executed and delivered, such additional instruments, documents, governmental fees and charges which are necessary to perform the terms of this agreement.

11. Jurisdiction Plan Reviewer makes no representations concerning soil conditions unless specifically included in writing in this agreement.

12. Applicant agrees not to use or permit any other person to use instruments of service prepared by Jurisdiction Plan Reviewer, which are not final and which are not signed and stamped or sealed by Jurisdiction Plan Reviewer. Applicant agrees to be liable and responsible for any such use of nonfinal instruments of service not signed and stamped or sealed by Jurisdiction Plan Reviewer and waives liability against Jurisdiction Plan Reviewer for their use. Applicant further agrees that final instruments of service are for the exclusive use of jurisdiction and may be used by Jurisdiction only for the Project described on the face hereof. Such final plans, drawings, or instruments of service may not be changed nor used on a different project without the written authorization or approval by Jurisdiction Plan Reviewer or Jurisdiction.

13. Jurisdiction Plan Reviewer has a right to complete all services agreed to be rendered under this contract. In the event this contract is terminated prior to completion of all services, unless Jurisdiction Plan Reviewer is responsible for such termination, Applicant shall release Jurisdiction Plan Reviewer from all liability for work performed.

14. Jurisdiction Plan Reviewer shall be entitled to immediately, and without notice, suspend the performance if any and all of its obligations under this agreement if Applicant files a voluntary petition seeking relief under the United States Bankruptcy Code or if there is an involuntary bankruptcy petition filed against client in the United States Bankruptcy Court, and that petition is not dismissed within fifteen (15) days of its filing.

15. This agreement shall not be construed to alter, affect or waive any lien or stop notice right which Jurisdiction Plan Reviewer may have for the performance of services pursuant to this agreement. Applicant also agrees to separately provide to Jurisdiction Plan Reviewer the present name and address of the record owner of the project property. Applicant also agrees to separately provide Jurisdiction Plan Reviewer with the name and address of any and all lenders who would loan money on the project and who are entitled to receive a preliminary notice.

16. If applicant fails to pay Jurisdiction Plan Reviewer within thirty (30) days after invoices are rendered, Applicant agrees Jurisdiction Plan Reviewer shall have the right to consider such default a material breach of this entire agreement, and, upon written notice, the duties, obligations

and responsibilities of Jurisdiction Plan Reviewer under this agreement are terminated. In such event, Applicant shall promptly pay Jurisdiction Plan Reviewer for all fees, charges and services provided by Jurisdiction Plan Reviewer up to the date contract is terminated.

17. All fees and other charges are due upon completion of the first plan check unless otherwise specified in this agreement.

18. Applicant agrees that the periodic billings from Jurisdiction Plan Reviewer to Applicant are correct, conclusive, and binding on client unless Applicant within thirty (30) days from the date of receipt of such billing, notifies Jurisdiction Plan Reviewer in writing of alleged inaccuracies, discrepancies, or errors in the billing.

19. Applicant agrees to pay a monthly late payment charge, which will be the lesser of, one and one-half percent (1-1/2%) per month, or a monthly charge not to exceed the maximum legal rate, which will be applied to any unpaid balance commencing thirty (30) days after the date of the original billing.

20. Applicant shall pay the costs of checking and inspection fees, zoning and annexation application fees, assessment fees, soils engineering fees, soils testing fees, aerial topography fees, and all other fees, permits, bond premiums, title company charges, blueprints and reproductions, and all other charges not specifically covered by the terms of this agreement.

21. In the event all or any portion of the work prepared or partially prepared by Jurisdiction Plan Reviewer be suspended, abandoned, or terminated, Applicant shall pay Jurisdiction Plan Reviewer for all fees, charges and services provided for the project, to the date of termination, not to exceed any contract limit specified herein. Applicant acknowledges if the project work is suspended, for a period of 60 days and restarts, there will be additional charges to suspension of the work which shall be paid for by Applicant as extra work.

22. Jurisdiction Plan Reviewer is not responsible for delay caused by activities or factors beyond Jurisdiction Plan Reviewer's reasonable control, including but not limited to, delays by reason of strikes, lockouts, work slowdowns or stoppages, accidents, acts of God, failure of Applicant to furnish timely information, faulty performance by Applicant or contractors or governmental agencies. When such delays beyond Jurisdiction Plan Reviewer's reasonable control occur, Applicant agrees Jurisdiction Plan Reviewer is not responsible in damages nor shall Jurisdiction Plan Reviewer be deemed to be in default of this agreement.

23. In the event that any party institutes a suit against another, either by complaint or by way of cross-complaint, including a cross-complaint for indemnity, for alleged negligence, error, omission, or other failure to perform, the losing party will pay the prevailing party's attorneys fees and costs.

24. Applicant agrees that in the event Applicant institutes litigation to enforce or interpret the provisions of this agreement, such litigation is to be brought and adjudicated in the appropriate court in the County in which Jurisdiction Plan Reviewer's principal place of business is located, and Applicant waives the right to bring, try or remove such litigation to any other county or judicial district.

25. Applicant acknowledges that Jurisdiction Plan Reviewer is not responsible for the performance of work by third parties including, but not limited to, the construction contractor and its subcontractors.

26. Applicant acknowledges that Jurisdiction Plan Reviewer's scope of services for this project does not include any work related in any way to asbestos and/or other hazardous waste. Should Jurisdiction Plan Reviewer or any other party encounter such materials on the job site, or should it in any other way become known that such materials are present or may be present on the job site or any adjacent or nearby areas which may affect Jurisdiction Plan Reviewer's work, Jurisdiction Plan Reviewer may, at its option, terminate work on the project until such time as Applicant retains a specialist contractor to abate and/or remove the asbestos and/or hazardous waste materials and warrant that the job site is free from any hazard which may result from the existence of such materials.

27. Applicant agrees to save, keep harmless, indemnify and defend Jurisdiction, Jurisdiction Plan Reviewer and their officers, employees and agents from all claims, liability, damages and costs, including attorneys fees, caused by any act, error or omission on the part of Applicant or on the part of its officers, employees, agents, consultants, contractors or subcontractors.

28. This agreement shall be interpreted as though prepared by all parties.



THIRD PARTY INSPECTION AGREEMENT

THIS AGREEMENT, made and entered into this ____ day of _____, 2004, by and between _____, hereinafter referred to as the ("Applicant"), and Linhart Petersen Powers Associates (LP²A) hereinafter referred to as the ("Jurisdiction Inspector").

WITNESSETH:

Whereas, County/City of _____ ("Jurisdiction"), allows an applicant to contract directly with a qualified third party inspection firm to perform such inspection services;

Whereas, Applicant desires to enter into a third party agreement with Jurisdiction Inspector to perform such inspection services;

Whereas, Jurisdiction Inspector is qualified to provide such services in accordance with the terms and conditions hereinafter set forth;

NOW, THEREFORE, the parties hereto agree to follows:

A. Applicant intends to: _____ (hereinafter called the "Project"). Jurisdiction Inspector agrees to perform the following services for the jurisdiction with respect to the project: **Inspection for conformance to the Building Codes that are currently amended by the State of Arizona and the City of Goodyear.**

B. Applicant agrees to compensate Jurisdiction Inspector by direct payment. Such compensation to Jurisdiction Inspector shall not be in lieu of other fees charged by the Jurisdiction. The Applicant further agrees that Jurisdiction Inspector's responsibilities with respect to this project are to the Jurisdiction as an official of the Jurisdiction, and not to the Applicant. The compensation for such services shall be as follows: _____

IN WITNESS WHEREOF, the parties hereby execute this agreement upon the terms and conditions stated above and the "PROVISIONS OF AGREEMENT" following the signatures below.

Jurisdiction Inspector:
LINHART PETERSEN POWERS ASSOCIATES

Applicant:

By: _____
Kevin M. Powers, P.E.

By: _____
(name)

Title: Principal

Title: _____

LP²A Job Number __

SEE THE REVERSE SIDE OF THIS AGREEMENT FOR THE PROVISIONS OF AGREEMENT

1. Jurisdiction Inspector shall review the plans prepared by or on behalf of Applicant for compliance with Jurisdiction regulations normally enforced by the building official. When Jurisdiction so desires, Jurisdiction Inspector may maintain a liaison with other Jurisdiction departments in order that the requirements of those departments can be incorporated within such building plans. When satisfied that all building related conditions of acceptance and the appropriate requirements of the Jurisdiction's regulations have been met, Jurisdiction Inspector shall advise the Building Department Jurisdiction Inspector of its recommendation that permits may be issued by Jurisdiction.
2. This agreement shall be binding upon the heirs, executors, administrators, successors and assigns of each of the parties.
3. This agreement shall not be assigned by any party without the prior written consent of the other parties.
4. This agreement contains the entire agreement between the parties relating to the Project and the provision of services to the Project. Any prior agreements, promises, negotiations or representations not expressly set forth in this agreement are of no force or effect. Subsequent modifications to this agreement shall be in writing and signed by all parties.
5. The waiver of any term, condition, or covenant, or breach of any term, condition, or covenant, shall not constitute the waiver of any other term, condition, or covenant, or the breach of any other term, condition, or covenant.
6. If any term, condition, or covenant of this agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this agreement shall be valid and binding.
7. This agreement shall be governed by and construed in accordance with the laws of the State of Arizona.
8. All original papers, documents, drawings and other instruments of service of Jurisdiction Inspector, and copies thereof, produced by Jurisdiction Inspector pursuant to this agreement, except documents which are required to be filed with public agencies, shall remain the property of Jurisdiction Inspector.
9. Applicant acknowledges that its right to utilize the services and work product provided pursuant to this agreement will continue only so long as Applicant is not in default pursuant to the terms and conditions of this agreement and Applicant has performed all obligations under this agreement.
10. Upon written request, Applicant shall execute and deliver, or cause to be executed and delivered, such additional instruments, documents, governmental fees and charges which are necessary to perform the terms of this agreement.
11. Jurisdiction Inspector makes no representations concerning soil conditions unless specifically included in writing in this agreement.
12. Applicant agrees no to use or permit any other person to use instruments of service prepared by Jurisdiction Inspector, which are not final and which are not signed and stamped or sealed by Jurisdiction Inspector. Applicant agrees to be liable and responsible for any such use of nonfinal instruments of service not signed and stamped or sealed by Jurisdiction Inspector and waives liability against Jurisdiction Inspector for their use. Applicant further agrees that final instruments of service are for the exclusive use of jurisdiction and may be used by Jurisdiction only for the Project described on the face hereof. Such final plans, drawings, or instruments of service may not be changed nor used on a different project without the written authorization or approval by Jurisdiction Inspector or Jurisdiction.
13. Jurisdiction Inspector has a right to complete all services agreed to be rendered under this contract. In the event this contract is terminated prior to completion of all services, unless Jurisdiction Inspector is responsible for such termination, Applicant shall release Jurisdiction Inspector from all liability for work performed.
14. Jurisdiction Inspector shall be entitled to immediately, and without notice, suspend the performance if any and all of its obligations under this agreement if Applicant files a voluntary petition seeking relief under the United States Bankruptcy Code or if there is an involuntary bankruptcy petition filed against client in the United States Bankruptcy Court, and that petition is not dismissed within fifteen (15) days of its filing.
15. This agreement shall not be construed to alter, affect or waive any lien or stop notice right which Jurisdiction Inspector may have for the performance of services pursuant to this agreement. Applicant also agrees to separately provide to Jurisdiction Inspector the present name and address of the record owner of the project property. Applicant also agrees to separately provide Jurisdiction Inspector with the name and address of any and all lenders who would loan money on the project and who are entitled to receive a preliminary notice.
16. If applicant fails to pay Jurisdiction Inspector within thirty (30) days after invoices are rendered, Applicant agrees Jurisdiction Inspector shall have the right to consider such default a material breach of this entire agreement, and, upon written notice, the duties, obligations and responsibilities of Jurisdiction Inspector under this agreement are terminated. In such event, Applicant shall promptly pay Jurisdiction Inspector for all fees, charges and services provided by Jurisdiction Inspector up to the date contract is terminated.
17. All fees and other charges are due upon completion of the first plan check unless otherwise specified in this agreement.
18. Applicant agrees that the periodic billings from Jurisdiction Inspector to Applicant are correct, conclusive, and binding on client unless Applicant within thirty (30) days from the date of receipt of such billing, notifies Jurisdiction Inspector in writing of alleged inaccuracies, discrepancies, or errors in the billing.
19. Applicant agrees to pay a monthly late payment charge, which will be the lesser of, one and one-half percent (1-1/2%) per month, or a monthly charge not to exceed the maximum legal rate, which will be applied to any unpaid balance commencing thirty (30) days after the date of the original billing.
20. Applicant shall pay the costs of checking and inspection fees, zoning and annexation application fees, assessment fees, soils engineering fees, soils testing fees, aerial topography fees, and all other fees, permits, bond premiums, title company charges, blueprints and reproductions, and all other charges not specifically covered by the terms of this agreement.
21. In the event all or any portion of the work prepared or partially prepared by Jurisdiction Inspector be suspended, abandoned, or terminated, Applicant shall pay Jurisdiction Inspector for all fees, charges and services provided for the project, to the date of termination, not to exceed any contract limit specified herein. Applicant acknowledges if the project work is suspended, for a period of 60 days and restarts, there will be additional charges to suspension of the work which shall be paid for by Applicant as extra work.
22. Jurisdiction Inspector is not responsible for delay caused by activities or factors beyond Jurisdiction Inspector's reasonable control, including but not limited to, delays by reason of strikes, lockouts, work slowdowns or stoppages, accidents, acts of God, failure of Applicant to furnish timely information, faulty performance by Applicant or contractors or governmental agencies. When such delays beyond Jurisdiction Inspector's reasonable control occur, Applicant agrees Jurisdiction Inspector is not responsible in damages nor shall Jurisdiction Inspector be deemed to be in default of this agreement.
23. In the event that any party institutes a suit against another, either by complaint or by way of cross-complaint, including a cross-complaint for indemnity, for alleged negligence, error, omission, or other failure to perform, the losing party will pay the prevailing party's attorneys fees and costs.
24. Applicant agrees that in the event Applicant institutes litigation to enforce or interpret the provisions of this agreement, such litigation is to be brought and adjudicated in the appropriate court in the County in which Jurisdiction Inspector's principal place of business is located, and Applicant waives the right to bring, try or remove such litigation to any other county or judicial district.
25. Applicant acknowledges that Jurisdiction Inspector is not responsible for the performance of work by third parties including, but not limited to, the construction contractor and its subcontractors.
26. Applicant acknowledges that Jurisdiction Inspector's scope of services for this project does not include any work related in any way to asbestos and/or other hazardous waste. Should Jurisdiction Inspector or any other party encounter such materials on the job site, or should it in any other way become known that such materials are present or may be present on the job site or any adjacent or nearby areas which may affect Jurisdiction Inspector's work, Jurisdiction Inspector may, at its option, terminate work on the project until such time as Applicant retains a specialist contractor to abate and/or remove the asbestos and/or hazardous waste materials and warrant that the job site is free from any hazard which may result from the existence of such materials.
27. Applicant agrees to save, keep harmless, indemnify and defend Jurisdiction, Jurisdiction Inspector and their officers, employees and agents from all claims, liability, damages and costs, including attorneys fees, caused by any act, error or omission on the part of Applicant or on the part of its officers, employees, agents, consultants, contractors or subcontractors.
28. This agreement shall be interpreted as though prepared by all parties.

ACORD CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
12/19/2003PRODUCER (650)934-0300 FAX (650)934-0495
Thoits Insurance
CA License # 0243213
444 Castro Street, Suite 200
Mountain View, CA 94041-2017THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION
ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE
HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR
ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.INSURED Linhart Petersen Powers Associates
6088 Sunol Blvd
Pleasanton, CA 94566

INSURERS AFFORDING COVERAGE

NAIC #

INSURER A	Hartford Casualty Ins #226	29424
INSURER B	Hartford Fire Ins Co. #226	19682
INSURER C	Illinois Union Insurance Co#708	27960
INSURER D		
INSURER E		

COVERAGES

THE POLICES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSURANCE TYPE	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS	
A	GENERAL LIABILITY	575BALV7882	09/05/2003	09/05/2004	EACH OCCURRENCE \$ 2,000,000	
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY				DAMAGE TO RENTED PREMISES (Excludes contents)	\$ 500,000
	<input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR				VED CAP (Any one person)	\$ 10,000
	GEN'L AGGREGATE LIMIT APPLIES PER				PERSONAL & ADV INJURY	\$ 2,000,000
	<input checked="" type="checkbox"/> POLICY <input type="checkbox"/> REV. <input type="checkbox"/> LOC				GENERAL AGGREGATE \$ 4,000,000	
					PRODUCTS - COMPROP AGG \$ 4,000,000	
A	AUTOMOBILE LIABILITY	575BALV7882	09/05/2003	09/05/2004	COMBINED SINGLE LIMIT (Ex accident) \$ 2,000,000	
	<input type="checkbox"/> ANY AUTO				ODDLY INJURY (Per person) \$	
	<input type="checkbox"/> ALL OWNED AUTOS				ODDLY INJURY (Per accident) \$	
	<input checked="" type="checkbox"/> SCHEDULED AUTOS				PROPERTY DAMAGE (Per accident) \$	
	<input checked="" type="checkbox"/> HYBRID AUTOS					
	<input checked="" type="checkbox"/> NON-OWNED AUTOS					
	GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT \$	
	<input type="checkbox"/> ANY AUTO				OTHER THAN EA ACC \$	
					AUTO ONLY \$	
	EXCESS/UMBRELLA LIABILITY				EACH OCCURRENCE \$	
	<input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE				AGGREGATE \$	
					\$	
	DEDUCTIBLE				\$	
	RETENTION \$				\$	
B	WORKERS COMPENSATION AND EMPLOYERS LIABILITY	57MEPE5231	11/01/2003	09/01/2004	<input checked="" type="checkbox"/> ALL STATE TORY LIMITS <input type="checkbox"/> OTHER	
	E - EACH ACCIDENT \$ 1,000,000					
	E - DISEASE - EA EMPLOYE \$ 1,000,000					
	E - DISEASE - POLICY LIMIT \$ 1,000,000					
	ANY PROPRIETORS PARTNERS OR EXECUTIVE OFFICERS MEMBER EXCLUDED?					
	From damage under SPECIAL PROVISIONS below					
C	Professional Liability	EONG21651230001	11/01/2003	09/01/2004	\$2,000,000 per claim	
	\$2,000,000 annual aggregate					

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

Re: City of Goodyear is named Additional Insured per notes and blanket additional insured form attached.

Form CIR attached / A 10-day notice of cancellation will be sent for non-payment of premium

CERTIFICATE HOLDER

City of Goodyear
Mr. Steve Burger, CBO
Community Development
190 North Litchfield Road
P.O. Box 5100
Goodyear, AZ 85338

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION ON LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

Teresa Farkas/TFARKA

1 **AGREEMENT FOR PROFESSIONAL SERVICES**

2 **THIS AGREEMENT**, made and entered into this ____ day of _____, by and between
3 the City of Goodyear (hereinafter "CITY"), located in the County of Maricopa, State of Arizona, and
4 **GP ENGINEERING, INC.** (hereinafter "CONSULTANT"), whose address is 2601 E. THOMAS RD.,
5 SUITE 135, PHOENIX, AZ 85016.

6 **THE PARTIES ENTER INTO THIS AGREEMENT** based upon the following facts,
7 understandings and intentions:

8 The CITY desires to contract with **CONSULTANT** and **CONSULTANT** to contract with the
9 CITY for provision by **CONSULTANT** to the CITY for professional services as further described
10 herein, upon the terms and conditions hereinafter set forth.

11 **NOW, THEREFORE, IN CONSIDERATION** of the mutual covenants and promises of the
12 parties herein contained, the parties hereto agree as follows:

13 1. **SERVICES**

14 **CONSULTANT** shall provide services for specific projects as may be requested by CITY;
15 such services shall be defined, scheduled, and authorized in subsequent Task Orders. Services may
16 include, but not be limited to:

- 17 • Provide technical personnel to perform plan review and inspection duties for compliance with
18 Goodyear Municipal Code, Mitigation Measures, Conditions of Approval, and other applicable
19 local, state and federal standards
20 • Hold meetings with developer or designer and City
21 • Hold other meetings as required
22 • Prepare all appropriate letters and reports related to the proposed work
23 • Receive all project-related correspondence from the developer or designer
24 • Facilitate communication between appropriate City staff, developer/designer, businesses, and
25 residents during the plan review phase
26 • Coordinate internal review of developer/designer submittals, including other departments and their
27 comments, and returning comments to developer/designer
28 • Provide and maintain project documentation, to be supplied to City at end of work
• Submit updates on project status, as requested, to Chief Building Official

CONSULTANT shall be an independent contractor and shall have responsibility for and
control over the details and means of providing its services under this Agreement. CONSULTANT
agrees that its services shall be performed with due diligence and in accordance with generally

1 accepted engineering practices.

2 CONSULTANT shall use its best efforts to perform and coordinate all activities in a timely
3 manner so that the projects will be completed according to the established project schedules.

4 2. AUTHORIZED REPRESENTATIVES.

5 CITY'S authorized representative shall be the City Manager or his/her designee.

6 CONSULTANT'S authorized representative shall be MICHAEL S. HUNDLEY, VICE-
7 PRESIDENT.

8 3. COMPENSATION.

9 *(Attach Exhibit stating Plan Review and Inspection Fees)*

10 CONSULTANT may submit monthly statements for services rendered. It is intended that
11 payments to CONSULTANT will be made by CITY within thirty (30) days of receipt of valid invoice.

12 4. INDEMNIFICATION.

13 CONSULTANT agrees to defend, indemnify and hold harmless the CITY, its officers, agents,
14 employees and volunteers from and against any and all claims, demands, actions, losses, damages,
15 injuries, and liability (including all reasonable attorney's fees and other litigation expenses) arising out
16 of the negligent acts or omissions of CONSULTANT in the performance of this AGREEMENT.

17 5. OWNERSHIP AND MAINTENANCE OF DOCUMENTS.

18 All documents furnished by CONSULTANT pursuant to this AGREEMENT are instruments
19 of CONSULTANT's services in respect to this project. They are not intended nor represented to be
20 suitable for reuse by others on extensions of this project or on any other project. Any reuse without
21 specific written verification and adoption by CONSULTANT for the specific purposes intended will
22 be at user's sole risk and without liability or legal exposure and expenses to CONSULTANT,
23 including attorney's fees arising out of such unauthorized reuse.

24 CONSULTANT's records, documents, calculations, and all other instruments of service
25 pertaining to actual project shall be given to CITY at the completion of the project. The CITY
26 reserves the right to specify the file format that electronic document deliverables are presented to the
27 CITY.

28 6. STANDARD OF PERFORMANCE.

1 CONSULTANT represents to CITY that the services shall be performed in an expeditious
2 manner, and with the degree of skill and care that is required by current, good, and sound procedures
3 and practices. CONSULTANT further agrees that the services shall be in conformance with generally
4 accepted professional standards prevailing at the time work is performed.

5 7. INSURANCE REQUIRED.

6 CONSULTANT shall, at its own expense, procure and maintain in full force at all times
7 during the term of this AGREEMENT the following insurance:

8 **A. Commercial General Liability Coverage.** CONSULTANT shall maintain
9 commercial general liability insurance with limits of no less than one million dollars
10 (\$1,000,000) combined single limit per occurrence or two million dollars (\$2,000,000)
11 aggregate limit for bodily injury, personal injury, and property damage.

12 **B. Automobile Liability Coverage.** CONSULTANT shall maintain automobile liability
13 insurance covering all vehicles used in the performance of this AGREEMENT providing a one
14 million dollar (\$1,000,000) combined single limit per occurrence for bodily injury, personal
15 injury, and property damage.

16 **C. Professional Liability Coverage.** CONSULTANT shall maintain professional
17 liability insurance with coverage for all negligent errors, acts or omissions committed by
18 CONSULTANT, its agents and employees in the performance of this AGREEMENT. The
19 amount of this insurance shall be not less than five hundred thousand dollars (\$500,000) on a
20 claims made annual aggregate basis or a combined single limit per occurrence basis.

21 **D. Compliance with State Workers' Compensation Requirements.** CONSULTANT
22 covenants that it will insure itself against liability for Workers' Compensation pursuant to the
23 provisions of Arizona Labor Code. CONSULTANT shall, at all times, upon demand of the
24 City Council and properly authorized agents, furnish proof that Workers' Compensation
25 Insurance is being maintained by it in force and effect in accordance with the Arizona Labor
26 Code.

27 **E. Other Insurance Provisions.** The policies are to contain, or be endorsed to contain
28 the following provisions:

1 (1) CITY, its officers, agents, employees, and volunteers are to be covered
2 as additional insureds as respects: Liability arising out of activities performed by or on
3 behalf of CONSULTANT and operations of CONSULTANT, premises owned,
4 occupied, or used by CONSULTANT. The coverage shall contain no special
5 limitations on the scope or protection afforded to CITY, its officers, officials,
6 employees, or volunteers.

7 (2) CONSULTANT's insurance coverage shall be primary insurance with
8 respect to CITY, its officers, officials, employees, and volunteers. Any insurance, risk
9 pooling arrangement, or self-insurance maintained by CITY, its officers, officials,
10 employees, or volunteers shall be in excess of CONSULTANT's insurance and shall
11 not contribute with it.

12 (3) Any failure to comply with the reporting provisions of the policy shall
13 not affect the coverage provided to the CITY, its officers, officials, employees, or
14 volunteers.

15 (4) The aforementioned policies shall be issued by an insurance carrier
16 having a rating of Best A-7 or better which is satisfactory to the City Risk Manager and
17 shall be delivered to CITY at the time of the execution of this AGREEMENT or as
18 provided below. In lieu of actual delivery of such policies, a Certificate issued by the
19 insurance carrier showing such policy to be in force for the period covered by the
20 AGREEMENT may be delivered to CITY. Such policies and certificates shall be in a
21 form approved by the City Risk Manager. Except for worker's compensation and
22 professional liability insurance, the policies mentioned in this subsection shall name
23 CITY as an additional insured and provide for thirty (30) days notice of cancellation to
24 CITY. Said policies shall not be canceled earlier than, nor the amount of coverage
25 reduced earlier than, thirty (30) days after the CITY receives notices from the insured
26 of the intent of cancellation or reduction.

27 8. SUSPENSION OF WORK.

28 CITY may, at any time, by ten (10) days' written notice, suspend further performance by

CONSULTANT. All suspensions shall extend the time schedule for performance in a mutually satisfactory manner, and CONSULTANT shall be paid for services performed and reimbursable expenses incurred prior to the suspension date. During the period of suspension, CONSULTANT shall not receive any payment for services, or expenses, except for reasonable administration expenses, incurred by CONSULTANT by reason of such suspension.

9. COMPLIANCE WITH CIVIL RIGHTS.

During the performance of this contract, CONSULTANT agrees as follows:

A. Equal Employment Opportunity. In connection with the execution of this AGREEMENT, CONSULTANT shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, or national origin. Such actions shall include, but not be limited to, the following: employment, promotion, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rate of pay or other forms of compensation; and selection for training including apprenticeship.

B. Nondiscrimination Civil Rights Act of 1964. CONSULTANT will comply with all federal regulations relative to nondiscrimination in federally assisted programs.

C. Solicitations for Subcontractors including Procurement of Materials and Equipment. In all solicitation, either by competitive bidding or negotiations, made by CONSULTANT for work to be performed under a subcontract including procurement of materials or leases of equipment, each potential subcontractor, supplier or lessor shall be notified by CONSULTANT of CONSULTANT's obligation under this AGREEMENT and the regulations relative to nondiscrimination on the grounds of race, religion, color, sex, or national origin.

10. INDEPENDENT CONTRACTOR.

In assuming and performing the services, CONSULTANT is an independent contractor and shall not be eligible for any benefits, which the CITY may provide its employees, except as expressly provided for in the AGREEMENT. All persons, if any, hired by CONSULTANT shall be employees or subcontractors of CONSULTANT and shall not be construed as employees or agents of the CITY in any respect. CONSULTANT shall have responsibility for and control over the means of providing

services under this AGREEMENT.

11. COMPLIANCE WITH LAWS.

CONSULTANT shall comply with all applicable federal, State of Arizona, and local laws, rules, and regulations and shall obtain all applicable licenses and permits for the conduct of its business and the performance of the services.

12. CHOICE OF LAWS.

This AGREEMENT shall be construed and interpreted in accordance with the laws of the State of Arizona, excluding any choice of law rules, which may direct the application of the laws of another jurisdiction.

13. NON-WAIVER.

The waiver by either party of any breach of any term, covenant, or condition contained in the AGREEMENT, or any default in their performance of any obligations under the AGREEMENT shall not be deemed to be a waiver of any other breach or default of the same or any other term, covenant, condition, or obligation, nor shall any waiver of any incident of breach of default constitute a continuing waiver of same.

14. ENFORCEABILITY.

In the event that any of the provisions or portions of application of any of the provisions of the AGREEMENT are held to be illegal or invalid by a court of competent jurisdiction, CITY and CONSULTANT shall negotiate an equitable adjustment in the provisions of the AGREEMENT with a view toward effecting the purpose of the AGREEMENT. The illegality or invalidity of any of the provisions or portions of application of any of the provisions of the AGREEMENT shall not affect the legality or enforceability of the remaining provisions or portions of application of any of the provisions of the AGREEMENT.

15. INTEGRATION.

The AGREEMENT contains the entire AGREEMENT and understanding between the parties as to the subject matter of this AGREEMENT. It merges and supersedes all prior or contemporaneous agreements, commitments, representation, writings, and discussions between CONSULTANT and CITY, whether oral or written.

16. SUCCESSORS AND ASSIGNS.

CITY and CONSULTANT respectively, bind themselves, their successors, assigns, and legal representatives. CONSULTANT shall not assign or transfer any interest in the AGREEMENT without the CITY's prior written consent, which consent shall be in the CITY's sole discretion. Any attempted assignment or transfer in breach of this provision shall be void.

17. ATTORNEY'S FEES

If either party to this AGREEMENT commences any legal action against the other party arising out of this AGREEMENT, the prevailing party shall be entitled to recover its reasonable litigation expenses, including court costs, expert witness fees, discovery expenses, and attorney's fees.

18. FINANCIAL RECORDS.

Records of CONSULTANT's direct labor costs, payroll costs, and reimbursable expenses pertaining to this project covered by this AGREEMENT will be kept on a generally recognized accounting basis and made available to CITY if and when required.

19. NOTICE.

All notices required hereunder shall be in writing and mailed postage prepaid by Certified or Registered mail, return receipt requested, or by personal delivery to the CITY's address as shown below, or such other places as CITY or CONSULTANT may, from time to time, respectively, designate in a written notice given to the other. Notice shall be deemed received three (3) days after the date of the mailing thereof or upon personal delivery.

To CITY: **Steve Burger, Chief Building Official**
City of Goodyear
Building Safety Division
190 N. Litchfield Road
Goodyear, AZ 85338

To CONSULTANT: **Michael S. Hundley, Vice-President**
GP Engineering, Inc.
2601 E. Thomas Rd., Suite 135
Phoenix, AZ 85016

20. TERM.

1 The Agreement may be terminated by either party with or without cause at any time after
2 providing the other party no less than thirty (30) days notice in writing via certified mail. In the event
3 of such termination, CONSULTANT shall be compensated for such authorized services up to the
4 point of termination. Any reports or other written, recorded, photographic, or visual materials and
5 other deliverables prepared for the CITY prior to the effective date of such termination shall be
6 promptly delivered to the CITY by CONSULTANT.

7
8 22. CONFLICT OF INTEREST: This Agreement shall be subject to cancellation pursuant to the
9 provisions of A.R.S. § 38-511 in the event of a conflict of interest.

10 \\
11 \\
12 \\
13 \\
14 \\
15

16 **IN WITNESS WHEREOF**, the parties have executed this AGREEMENT in three (3) copies
17 as of the date and year first written above.

18 **CONSULTANT**

CITY OF GOODYEAR

19
20 By: 

By: _____

21 Name: Michael S. Hundley
22 Title: Vice President
23 Address: 2601 E. Thomas Rd., Ste 135
24 Phoenix, AZ 85016
25 Phone: 602-287-9441

Name:
Title
Address:
Phone:

26 **APPROVED AS TO FORM:**
27 _____

ATTEST:
28 _____

City Attorney

City Clerk

EXHIBIT A

PLAN REVIEW AND INSPECTION FEES

I. COMPENSATION OF CONSULTANT

Compensation to the CONSULTANT for the performance of Services as set forth in the Agreement shall be paid to the CONSULTANT by the City of Goodyear. Building Permit Plan Review Fees collected by the City of Goodyear from any permit applicant in conjunction with the carrying out of the functions set forth in this Agreement shall be collected by the City of Goodyear and shall be independent of compensation paid to the CONSULTANT by the City of Goodyear. CONSULTANT shall be entitled to compensation upon completion of the initial plan review. If the invoice is computed correctly and the work performed satisfactorily payment by the City of Goodyear to the CONSULTANT is to be made within thirty (30) days following the date of the invoice. In the event legal action or the service of an outside collection agency are necessary for the collection of any sums due under this Agreement, the City of Goodyear agrees to pay collection fees, reasonable attorney's fees and court costs incurred by the CONSULTANT.

A. FULL DISCIPLINE PLAN REVIEW

For Building Plan Review, the CONSULTANT shall be compensated at a rate equal to 70% of the Building Permit Plan Review Fee computed utilizing the City of Goodyear's latest adopted Building Permit Plan Review Fee Schedule with City Fire Code Review surcharge added or not included depending on the City's request to perform or not perform Fire Code Review.

B. PARTIAL PLAN REVIEW

Should the City of Goodyear assign the CONSULTANT partial plan review responsibilities for a particular plan set, and unless modified by negotiation for special cases, compensation for the individual discipline review will be established using the following percentage of full review fees described in Section II. A.: Architectural 40%, Structural 50% and 25% for either Plumbing, Mechanical or Electrical or Fire Codes.

C. ADDITIONAL REVIEW, FIRE PROTECTION SYSTEMS PLAN REVIEW AND MISCELLANEOUS CONSULTING AND INSPECTION SERVICES

For additional Plan Review, Fire Protection Systems Plan Review, and Miscellaneous Consulting and Inspection Services, the CONSULTANT shall be compensated at the applicable hourly rate as set forth in Exhibit A (Hourly Rates) or at a negotiated fixed fee.

D. EXPEDITED PLAN REVIEW

Fees for 5 day expedited plan reviews will be computed at a rate equal to 2 times (200%) of the normal fee described in Sections I A, B and C above. Fees for 3 day expedited reviews will be computed at a rate equal to 3 times (300%) the normal fee described in Sections I A, B and C.

EXHIBIT B
HOURLY RATE SCHEDULE

<u>CLASSIFICATION</u>	<u>BILLING RATE *</u>
Principal Engineer	\$145.00**
Division Manager	\$ 95.00**
Plan Check Engineer	\$ 90.00**
Project Manager	\$ 90.00**
Plans Examiner	\$ 75.00
Fire Code Plans Examiner	\$ 75.00
Fire Code Inspector	\$ 80.00
Building Inspector	\$ 75.00
Permit Specialist	\$ 50.00
Administrative Support	\$ 40.00

* Rates subject to annual review. Jurisdictional approval required prior to any adjustments.

** All plan review services to be performed for \$75.00/hr.

CITY OF GOODYEAR
3rd PARTY BUILDING SAFETY SERVICES

THIS AGREEMENT, made and entered into this ____ day of _____, 20____, by and between the City of Goodyear, in the State of Arizona, hereinafter referred to as "CITY" and _____, hereinafter referred to as OWNER/AGENT, and GP ENGINEERING, hereinafter referred to as "ENGINEER".

WITNESSETH:

WHEREAS, the CITY has established a procedure whereby an OWNER/AGENT has the option to retain the services of a qualified independent ENGINEER to perform the building plan review normally conducted by the CITY or its private contractors; and

WHEREAS, OWNER/AGENT proposes to utilize a 3rd party process in connection with the proposed development of property located at _____, known as _____; (Project No. _____); and

WHEREAS, ENGINEER is experienced in providing such services for Municipal corporations and is able to provide personnel with the proper experience and background to carry out the duties involved; and

WHEREAS, OWNER/AGENT wishes to retain ENGINEER for the performance of said services;

NOW, THEREFORE, in consideration of the mutual covenants, benefits and premises herein stated, the parties hereto agree as follows:

I. **BUILDING SAFETY SERVICES:**

- A. CITY does hereby appoint ENGINEER with the authorities, responsibilities and considerations ordinarily granted to an officer of the CITY, in a contractual capacity to perform building safety services in accordance with the terms and conditions herein set forth.
- B. ENGINEER shall determine status of compliance with the CITY'S Building, Plumbing, Mechanical, Electrical and Fire Codes and other pertinent City and State regulations falling within the purview of the Building Official.

II. **RESPONSIBILITIES OF THE ENGINEER**

- A. The ENGINEER will perform plan review of projects with a valuation not exceeding three million dollars or three stories in height within 7 to 10 working days of receipt of reasonably complete plans and documents. The ENGINEER will give the CITY and OWNER/AGENT timely notice of any individual circumstance or anticipated difficulty which may have an effect on meeting the turnaround. Plan review of projects exceeding three million dollars in valuation or three stories in height will be conducted in a reasonable amount of time. Such time frame will be negotiated on a case-by-case basis. The ENGINEER shall issue to the OWNER/AGENT and the CITY a formal written opinion for each set of plans reviewed, verifying either that the plans are in compliance with the CITY'S Building, Plumbing, Mechanical and Electrical and Fire Codes, and other pertinent CITY and State regulations falling within the purview of the Building Official, or specifically detailing corrections necessary to bring such plans into conformance with said Codes and regulations. When necessary, the ENGINEER shall

perform a recheck of initial plan review comment responses in a timely manner.

- B. For any on-site inspections, fire protection system plan review and/or for those plans which require additional corrections, or contain revisions or changes unrelated to initial review correction comments or which contain new work, deferred from the initial plan review submittal shall be returned to the ENGINEER for additional plan review. The ENGINEER shall examine corrected plans, additional plan information or conduct preliminary plan reviews and verify by written opinion whether or not plans are in conformance with the CITY'S Codes and regulations or detail corrections necessary to bring plans into conformance.
- C. Upon request of the OWNER/AGENT and when agreed to by CONSULTANT plan review turnaround time will be reduced for 5 day and 3 day expedited reviews. Normal turnaround time for initial reviews and rechecks will be reduced to 3 business days for 3 day expedited reviews and 5 business day turnarounds used for 5 day expedited reviews.

III. FEES FOR BUILDING SAFETY SERVICES

- A. For services provided under Section II. A., the ENGINEER shall be compensated at a rate equal to 70% of the Building Permit Plan Review Fee computed utilizing the most current edition of the fee structure and valuation policy adopted by the City of Goodyear Building Permit Fee Table and the most current edition of the fee structure or stated valuation, whichever is higher. Said fees shall be paid to the ENGINEER by the OWNER/AGENT. ENGINEER shall be entitled to compensation upon completion of the initial plan

review or inspection.

Valuation: _____

GP Engineering Plan Review Fee: _____

The CITY shall not be called upon to assume any liability for the direct or indirect payment of the fee owed by the OWNER/AGENT or any salary, wage, or compensation to any person employed by the ENGINEER.

- B. For services provided under Section II. B., the ENGINEER shall be compensated by the OWNER/AGENT at the applicable hourly rate as set forth in Exhibit A (Hourly Rates) or at a negotiated fixed fee. ENGINEER shall be entitled to compensation upon completion of each additional plan review or inspection.
- C. Fees for 5 day expedited plan reviews will be computed at a rate equal to 2 times (200%) of the normal fee described in Sections III.A and B above. Fees for 3 day expedited reviews will be computed at a rate equal to 3 times (300%) the normal fee described in sections III.A and B above.

IV. INSURANCE AND INDEMNIFICATION

- A. ENGINEER and OWNER/AGENT shall each separately indemnify and save harmless the CITY, its officers, and its employees, from and against any and all damages to property or injuries to, or death of any person or persons, including property and employees of the CITY, and against any and all liabilities, suits, actions, proceedings, or judgments therefore, resulting from their own negligent acts or

omissions or the negligent acts or omissions of their respective employees or subcontractors; except that neither the ENGINEER nor the OWNER/AGENT shall hereby incur any such obligation for the negligent acts or omissions of the other.

B. ENGINEER shall obtain and maintain the following insurance coverage:

1. COMPREHENSIVE GENERAL LIABILITY coverage with policy limits of not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate. The CITY shall be named as an additional insured.
2. PROFESSIONAL LIABILITY coverage with policy limits of not less than \$1,000,000 per occurrence and annual aggregate.
3. WORKER'S COMPENSATION INSURANCE in the statutory amount.

C. ENGINEER shall provide the CITY with certificates of insurance acceptable to the City Attorney showing the above coverage and policy endorsements prior to commencement of any Building Safety services.

V. **GENERAL CONDITIONS**

- A. During the period that this Agreement is in effect the ENGINEER shall provide no services for any private client within the boundaries of CITY which requires review by the CITY Building Official.
- B. CITY shall not be called upon to assume any liability for the direct payment of any salary, wage or other compensation to any person

employed by ENGINEER performing services hereunder for the CITY.

- C. All officers, agents, employees, subcontractors, their agents, officers and employees who are hired by or engaged by the ENGINEER in the performance of this Agreement shall be deemed officers, agents and employees and subcontractors of ENGINEER. The CITY shall not be liable or responsible to them for anything whatsoever other than the liability to the ENGINEER as set forth in this Agreement.
- D. This agreement cannot be assigned by either party without prior mutual written consent.
- E. All materials, information, and documents, whether finished, unfinished, or draft, developed, prepared, completed or acquired by ENGINEER during the performance of services for which it has been compensated under this Agreement, including without limitation the calculations, data, studies, surveys, reports, correspondence, memoranda, maps, models, photographs, drawings and audio or video recordings, shall become the property of CITY and shall be delivered to the Building Official upon completion or termination of this Agreement, whichever occurs first.
- F. The licensed architect, registered engineer, or other authorized person, entity or corporation who prepared or supervised preparation of the project plans, specifications, and/or engineering calculations being reviewed, shall not be associated in any way with the ENGINEER.

VI. PERMIT ISSUANCE

Building permits shall be issued by CITY upon completion of all requirements specified above and, upon completion of all requirements of any other affected department of CITY or other governmental agency.

VII. ACKNOWLEDGMENTS

The OWNER/AGENT and the ENGINEER acknowledge that they have read and understand the above statement of conditions, requirements, and direction and agree to perform accordingly. Furthermore, they understand that no building permits shall be issued for any project until these requirements have been satisfied, and they certify that no work has been undertaken by the ENGINEER involving plan check services prior to submittal of the required certificates of insurance prior to approval of same by the City of Goodyear Attorney.

IN WITNESS WHEREOF, the parties have signed below.

OWNER/AGENT:

GP ENGINEERING

BY _____

BY 

Name: _____

Michael S. Hundley

Title: _____

Vice - President

ADDRESS

ADDRESS
2601 E. Thomas Rd. Ste 135
Phoenix, Arizona 85016

TELEPHONE

TELEPHONE
(602) 287-9441

BY _____
CITY OF Goodyear
BUILDING OFFICIAL

EXHIBIT A HOURLY RATE SCHEDULE

CLASSIFICATION	<u>BILLING RATE *</u>
Principal Engineer	\$ 145.00**
Division Manager	\$ 95.00**
Plan Check Engineer	\$ 90.00**
Project Manager	\$ 90.00**
Plans Examiner	\$ 75.00
Fire Code Plans Examiner	\$ 75.00
Fire Code Inspector	\$ 80.00
Building Inspector	\$ 75.00
Permit Specialist	\$ 50.00
Administrative Support	\$ 40.00

* Rates subject to annual review. Jurisdictional approval required prior to any adjustments.

** All plan review services to be performed for \$75.00/hr.

ACORD CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

11/17/2003

PRODUCER (480)483-3311 FAX (480)998-2270
Arizona Western Insurance Agency
10806 N Scottsdale Rd
Scottsdale, AZ 85254
Scott Mackenzie

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURERS AFFORDING COVERAGE

NAIC #

INSURER A: Hartford Casualty Insurance Co

29424

INSURER B: Evanston Insurance Co.

INSURER C: (through Burns & Wilcox)

INSURER D:

INSURER E:

INSURED C P ENGINEERING INC
2601 E THOMAS ROAD #135
PHOENIX, AZ 85016

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	ADDL INFO	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	X	GENERAL LIABILITY	59SBAGM0745	11/12/2003	11/12/2004	EACH OCCURRENCE \$ 1,000,000
		<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY				DAMAGE TO RENTED PREMISES (EA occurrence) \$ 300,000
		<input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR				MED EXP (Any one person) \$ 10,000
		GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC				PERSONAL & ADV INJURY \$ 1,000,000
						GENERAL AGGREGATE \$ 2,000,000
						PRODUCTS - COMPI/OP AGG \$ 2,000,000
A	X	AUTOMOBILE LIABILITY	59SBAGM0745	11/12/2003	11/12/2004	COMBINED SINGLE LIMIT (EA accident) \$ 1,000,000
		<input type="checkbox"/> ANY AUTO				BODILY INJURY (Per person) \$
		<input type="checkbox"/> ALL OWNED AUTOS				BODILY INJURY (Per accident) \$
		<input checked="" type="checkbox"/> SCHEDULED AUTOS				PROPERTY DAMAGE (Per accident) \$
<input checked="" type="checkbox"/> HIRED AUTOS						
<input checked="" type="checkbox"/> NON-OWNED AUTOS						
		GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT \$
		<input type="checkbox"/> ANY AUTO				OTHER THAN EA ACC \$
						AUTO ONLY: AGG \$
		EXCESS/UMBRELLA LIABILITY				EACH OCCURRENCE \$
		<input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE				AGGREGATE \$
						\$
		DEDUCTIBLE				\$
		RETENTION \$				\$
		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY				WC STATUTORY LIMITS OTH-ER
		ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED?				E.L. EACH ACCIDENT \$
		If yes, describe under SPECIAL PROVISIONS below				E.L. DISEASE - EA EMPLOYEE \$
						E.L. DISEASE - POLICY LIMIT \$
B		OTHER Professional Liability	E0816058	07/02/2003	07/02/2004	1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

Certificate Holder is added as additional insured, including it's members, officers, agents, employees, and other elected officials.

CERTIFICATE HOLDER

City of Goodyear
Attn: Steve Burger, Building Official
190 N. Litchfield Road
Goodyear, AZ 85338

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

Donna Hilker

ACORD 25 (2001/08) FAX: (623)932-3027

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